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Current Topics.

Tribute to Chief Justice Taft.

WHETHER IT is owing to the natural reserve of Englishmen, or a feeling that the court is a forum for the decision of cases brought before it and not for the pronouncement of *éloges* on those, however distinguished, who in their lifetime have spent their working days in expounding the law, the fact is that in this country the tributes paid to judges who have passed away have usually been of a very perfunctory character. They manage these matters differently in the United States. Quite recently, at a sitting of the Supreme Court, tributes were paid to the memory of the late Chief Justice, WILLIAM HOWARD TAFT, who brought to the discharge of his judicial duties a wealth of experience rare in the annals of that great court. The speeches of the Attorney-General on behalf of the bar, and of Chief Justice HUGHES on behalf of the bench, were remarkable not only in the expression of the esteem in which the late Chief was held by his fellow countrymen, and in particular by his colleagues of the bar and bench, but by the fullness of detail into which both speakers entered; different indeed from the few cursory words which might have been spoken in similar circumstances in this country. Chief Justice HUGHES enlarged on the service which his predecessor had rendered to the tribunal over which he presided with such dignity and success by securing the more prompt despatch of business and by his endeavour to improve the procedure and efficiency of all the Federal Courts throughout the Union. Such work may not, in fact rarely does, evoke any popular enthusiasm, but the work of a judge has not to be measured by any such standard; it is sufficient if in his hands justice is administered at a minimum of cost and with a minimum of delay. Chief Justice TAFT did not a little to attain this result during the few years he presided over the Supreme Court.

"A Patchwork Quilt."

A DERBY solicitor describes the Road Traffic Act, 1930, as "a patchwork quilt," and the justices' clerk expects it to lead him to "Mickleover or Boundary House," which are, one gathers, homes for those whose minds have given way. We do not pretend to be wiser or more mentally alert than our fellows, but is the Act really as bad as all that? It is of course patchwork in a sense, for it has to deal with a variety of matters, but it is patchwork such as good needlewomen do, every piece, however awkward in outline, suitably disposed and neatly sewn into position. What one would like to do with the critics of legislation is to set them down to draft a Bill upon a comparatively simple subject, and watch their embarrassment as the difficulty of the task gradually unfolded itself. Here we have a law on an exceedingly complicated and difficult subject, much of it necessarily experimental because dealing with new things. Motor cars have been on the roads but little more than a quarter of a century, and the roads have had to be recreated for them. They have swarmed like locusts, and have cut across existing customs and practices, as they have cut across counties and countries. For our part we think the Ministry of Transport and the Parliamentary draftsmen deserve high praise for their work. Many of the complaints are based on a perfunctory examination of the Act. Over and over again the writer has had a supposed omission commented upon, only to find that the critic has missed the relevant section or sub-section. There are some lapses, but surprisingly few. What we have to do is to take the Act and all do our very best to work it. Then we shall be in a position to make constructive suggestions for its improvement.

Cheaper Litigation Again.

AFTER AN interval of over six months the General Council of the Bar and the Council of The Law Society have issued their Reports to the Lord Chancellor on the recommendations of the London Chamber of Commerce on the subject of the expense of litigation. As might be expected, both Reports contain a detailed and thorough examination of the points involved, and there is a satisfactory measure of agreement on those matters which are most material. For example, both Reports concur in holding that junior counsel is not excessively remunerated by reason of the "two-thirds rule," though each recommends some amendment of the rule in order to meet the views of the Chamber of Commerce. Any loss to counsel so caused might be met, in the view of the Bar Council, by increasing the fees for advising and drafting, and in the view of The Law Society, by increasing the fees in regard to interlocutory work. Again, both Reports agree that after pleadings are closed there should be a summons for directions to obtain orders for dealing with discovery, interrogatories, admissions, admission of documents and evidence by affidavit, date of trial and other important preliminary questions. The Bar Council, however, suggests that pleadings should be delivered according to rule without any summons for directions, and that either party should, after pleadings closed, have liberty to apply for subsequent directions either before the Master or the Judge at his option. The Bar Council's Report contains some valuable additional submissions. With regard to the question of the admissibility

of documents, the Council holds that all documents should be accepted in evidence without oral proof unless formally challenged, in which case the challenger, unless the court otherwise ordered, should have to pay the costs of proof. The Council moreover suggests that if both parties agree or the court directs, evidence of witnesses may be presented in the form of affidavits, with the same right for the opposite party to reject as in the case of other documents, and similar consequences as to costs. Another somewhat more revolutionary suggestion is that specially indorsed writs be issuable for claims for unliquidated damages, to be followed by a summary judgment on the question of liability as under Ord. XIV. On the general issue, there is a great deal to be said for the view that a large proportion of the blame for the expensiveness of litigation rests on the shoulders of the lay client. It is invariably he, and not the solicitor, who insists on the retention of fashionable and expensive counsel, and it is he who is most unyielding when questions arise as to the admission of documentary evidence under Ord. 32, r. 2. Insufficient use is undoubtedly made of the existing body of rules, particularly with regard to the admission of evidence by affidavit (see Ord. 37 and Ord. 38). It is fervently to be hoped that some useful practical result will emerge from the plentiful suggestions that have been made with regard to the cheapening of legal procedure.

"Summary Justice."

We have lately thrown open our columns to a free discussion of "Summary Justice," and both the opponents and the supporters of the present system of administering justice in the courts of summary jurisdiction have expressed themselves vigorously. Naturally, one of the chief objections to the lay justice, in the eyes of his critics, is his lack of legal training; although it is urged, on the other side, that men may acquire a sound working knowledge of both principle and practice without qualifying as either a barrister or a solicitor. The report in last Saturday's press of a conference of magistrates, held at Newcastle under the auspices of the Magistrates' Association, shows that many lay justices are taking their office and duties seriously, seeking information from the most reliable sources, and trying to enlarge their knowledge and usefulness by the most practical means. Representatives of the Home Office and a metropolitan magistrate addressed the meeting, and it is clear from even a short newspaper report that a profitable discussion took place. The subject dealt with was the treatment of young offenders, admittedly the most urgent penal problem of the present day. A representative of the Home Office touched what is, in our opinion, the real point of the matter, when he suggested that the cure for the present increase in indictable offences, especially among the young, is the right treatment of the young offender and the recognition of the importance of the juvenile court. It has been said many times that earlier treatment of young offenders is better than Borstal institutions for them later on. We agree. We have a whole-hearted admiration for the Borstal institutions and for those who administer them, but we suppose they would be the first to admit that if their charges could have been caught still younger and trained suitably there would have been an even better chance for them. The certified schools of to-day are nearly all excellent; magistrates can best satisfy themselves on this point by visiting them. One justice at the conference last week frankly owned that the reason why magistrates did not commit children more readily to the schools was because they did not know what they were like. It is to be feared that another cause is sometimes the cost to public funds, a consideration which ought not to prevail if it be clear that a committal is definitely desirable from the point of view of the reform or welfare of the child. Probation is, of course, the best treatment for a young offender who has not gone far wrong and has a good home; but it will not meet every case. The Magistrates' Association and its able secretary are to be congratulated upon the promotion of such conferences. The Association is steadily gaining the interest and confidence of magistrates and their clerks; increasing efficiency is the result.

Who may be Commissioners of Assize.

The fact that within the last few weeks several members of the Inner Bar have been appointed to act as Commissioners of Assize in order to allow of more of the judges remaining in town to dispose of the long list of actions set down for trial, makes it of interest to inquire who are eligible for this duty. The answer to this question will be found in s. 70, sub-s. (3) of the Supreme Court of Judicature (Consolidation) Act, 1925, although for the most part, this merely reproduces earlier legislation on the subject. By the sub-section mentioned those primarily to be named in the commissions of assize are the judges of the King's Bench Division, but in addition to these, "every judge of the Probate Division shall, so far as the state of business in that Division will admit, share with the other judges the duty of holding sittings under commissions of assize," and further "His Majesty may include . . . the Master of the Rolls, any Lord Justice, any judge of the Chancery Division, any judge of county courts, any of His Majesty's counsel learned in the law, and if he consents to act, any person who has held the office of a judge of the Court of Appeal or of a judge of the High Court." As is generally known, many of those thus made eligible never in fact are included in the ranks of commissioners. For a short period the Chancery judges went on circuit, but the famous incident when one of those dignitaries construed too literally a reference by a witness in a criminal case to a sanguinary jacket showed that Equity judges were out of their element in the Crown court, and so the ill-starred experiment of sending them on circuit was incontinently dropped. Not much use has been made of the eligibility of county court judges, only one of whom, so far as we can recall, has so far gone on circuit as a commissioner. It will be observed that as regards members of the Bar only King's Counsel are made eligible, stuff-gownsmen, although they may be appointed judges of the High Court, are not included in the list of those who may be appointed Commissioners of Assize. In the old days those who, although not silks, had received patents of precedence were collocated with King's (or Queen's) Counsel and could be named in any commission "for the despatch of civil or criminal business at any county or place," in England or Wales; but we have had no barrister holding a patent of precedence since the late Lord Phillimore left the Bar, and are not likely to have another.

The Crown and Limitation.

Although at present, in accordance with the maxim *nullum tempus occurrit regi*, the claim of the Crown against its debtor is never barred by lapse of time, "it would, no doubt," as Mr. Justice Blackburn forcefully pointed out in *Rustomjee* v. *The Queen* (1876), 1 Q.B.D., at p. 496, "be very proper, and right, and judicious for the legislature to pass an Act to say that in future some statute of limitation shall apply, but it has not been done yet." The legislature, indeed, appears quite early and properly to have appreciated the necessity of limiting the period in which, as between subject and subject, actions might be brought, and the Statute of Limitations, 1623, was accordingly passed. Whatever considerations originally dictated the desirability of excluding the Crown from the operation of that statute, public opinion to-day appears to be pressing for the immediate adoption of any recommendations to place litigation between the Crown and the subject on the same footing, where practicable and compatible with public interest, as that between subject and subject. "The object of reform," said Sir Leslie Scott, K.C., in his lecture on "Proceedings by and against the Crown," (fully reported in the supplement to The Solicitors' Journal of 15th December, 1928), "should be to assimilate Crown law and procedure to ordinary law and procedure, while at the same time steering a middle course between

prejudicing the rights of the subject and endangering the interests of the State." It seems a little difficult to understand how, in a *bona fide* claim by or against the Crown, the subject's rights will be prejudiced or the State's interests endangered by fixing a definite time limit for bringing actions. The question of endangering State interests could surely be decided within six years. While quite appreciating that just as time does not run against the Crown it also does not run in favour of it, and that there is no statutory limitation to a petition of right, it does not seem a happy or desirable position that different considerations must apply according as a subject is dealing with the Crown or another subject. "The King," said Baron ATKYNS, in *Pawlett* v. *The Attorney-General* (Hardres's Rep., 469), "is the fountain and head of justice and equity; and it shall not be presumed that he will be defective in either. And it would derogate from the King's honour to imagine that what is equity against a common person should not be equity against him." The most recent case in which this question of limitation arose was *Administrator of Austrian Property* v. *Russian Bank for Foreign Trade*, 75 SOL. J. 489, where the Administrator sued the defendant bank as acceptors of two bills of exchange. The Austro-Hungarian Bank were at all material times the indorsers and holders of the bills. The Administrator's demand for payment of the bills, on the 14th September, 1923, was not complied with, but the writ was not issued until the 14th November, 1929—more than six years after the demand. Mr. Justice SWIFT, giving judgment for the Administrator, said that the Crown had done nothing to deprive itself of the right to say that the Statute of Limitations did not apply.

Death Duties and Discretionary Trusts.

A SOLICITOR WHO signs himself "Bedford Row" has written a letter to *The Times*, published 15th July, on a case which undoubtedly appears a hard one. A husband last year settled certain funds which were his property upon a discretionary trust during his lifetime, the objects being himself, his wife, and his children. The trustees have in fact exercised their discretion by paying the income to him alone. His wife has just died, and the authorities claim the full estate duty on the whole of the life interest. According to "Bedford Row," "Counsel advises that the courts would probably hold that the claim of the revenue is legally justified." On a point not actually covered by authority, variance of opinion no doubt is possible, but it is submitted that the very recent case of *A.-G.* v. *Farrell* [1931] 1 K.B. 81, could certainly not be quoted in favour of the contention of the Revenue in that of "Bedford Row." In *A.-G.* v. *Farrell* and *A.-G.* v. *Heywood* (1887), 19 Q.B.D. 326, a case before a Divisional Court, consisting of STEPHEN and WILLS, JJ., which was followed by the Court of Appeal in *A.-G.* v. *Farrell*, duty was successfully claimed by the Revenue on the death of a person who had settled property for his life on discretionary trusts, of which he was one of the objects. In the older case duty was charged on the whole interest, although if the trustees had chosen he might not have received a penny of the income, and, by following that case, the judges ensured the same result in *A.-G.* v. *Farrell*. In "Bedford Row's" case, however, the death was not that of the settlor, but of another possible object of the trust. The duty would thus fall under s. 2 (1) (*b*) of the Finance Act, 1894, and not under s. 2 (1) (*c*), as in *A.-G.* v. *Farrell*, and would be confined to "the extent to which a benefit accrues or arises by the cesser of such interest." The demand thus made appears to be on the footing that every interest in a discretionary trust, and however many objects there are, must be treated for the purpose of death duties as a full life interest. In the absence of authority, so monstrous a claim is surely open to doubt. However, there might be repeated appeals, and, some time during the case, a Finance Act might contain the section: "For the purpose of removing doubts, it is hereby declared that any interest under a discretionary or protective trust shall be deemed to be, and always to have been, a full life interest in all the property subject to such trust for all purposes of the assessment and payment of estate duty thereon."

Inconvenience of Postponement.

OCCASIONALLY APPLICATIONS for the postponement of cases on the ground of counsel's convenience are still made, but lately, perhaps, due in some measure to the widespread criticism of the delays in litigation, judges are insisting on decidedly more substantial reasons before acceding to requests for postponement. Illness of one of the parties, supported by a medical certificate, is, of course, invariably an unquestionable ground, as is the unavoidable absence of a vitally material witness. Where, however, obviously flimsy reasons are advanced, judicial patience has not infrequently been overtaxed, with the result that such applications have at times been flatly refused. Postponement necessarily means to some extent a re-arrangement of cases with a corresponding inconvenience in other quarters. The degree of this inconvenience naturally varies, and an illustration of just how serious the position may be arose before the Judicial Committee of the Privy Council recently. Motions for the postponement of four Canadian appeals were before the Board. The motions were in fact all assented to, but a somewhat severe comment on the practice and undesirability of making these applications was made by the Lord Chancellor. "Notices are issued every autumn," said his lordship, "giving the dates by which appeals must be set down for inclusion in the printed lists for the respective sittings during the ensuing year. The date for closing the present list was the 19th May. Our learned Registrar has been in almost daily communication with solicitors during the past two months as to fixing dates for the hearing of Canadian appeals to suit the convenience of counsel coming from Canada. It is obvious that the withdrawal of four appeals after the list is closed disorganises these arrangements, and also places counsel in a difficulty when their cases are unexpectedly advanced. The Board think it proper to suggest that it will be convenient in future to all concerned if counsel will do their best to set down only appeals intended to be heard."

Restricting Testamentary Power.

MISS RATHBONE'S Wills and Intestacies (Family Maintenance) Bill, reported without amendment from the joint committee, seems to be meandering slowly towards the Statute Book. A legal world which has lately witnessed the death of the heir-at-law and other drastic, to an older generation almost incredible, changes does not appear to be greatly shocked at the first attempt by the state for many centuries to interfere with a testator's right to do what he likes with his own. No doubt there will still be a certain amount of opposition to the Bill, but the opposition will probably be confined to those whose mentality in regard to all change is that of the great Lord ELDON, of whom it was said that at the slightest suggestion of reform or alteration in law or procedure he called God to witness that it would be the ruin of his beloved country. To most of us it has always seemed something of an anomaly that the oath taken by most husbands "with all my worldly goods I thee endow" should in practice mean rather less than nothing; indeed up to a comparatively recent date that oath meant that while the husband might capriciously elect to give the wife no endowment at all, he took care that *she* should endow *him* with everything she might possess. Probably the precedent now set up will later on be extended to embrace the principle of the "*legitima portio*," by which not only husbands and wives but also children are entitled to claim as of right a certain natural expectant share of a parent's estate, and it is significant that the principle prevails in Scotland and in practically every other civilised country in the world. In certain continental countries a parent is allowed to lodge evidence that a child is a prodigal, an ingrate, or in no need of financial assistance, but, subject to that possibility, the doctrine is that people who choose to bring children into the world must not ignore the natural claims of kindred.

Criminal Law and Practice.

WAIT AND SEE.—Asked by the clerk at Willesden Police Court the usual question "Guilty or not guilty?" last week, a defendant replied "I will hear what the policeman says first," and qualified for a short paragraph in the daily press.

The defendant's action was really much more prudent than humorous. Experienced advocates frequently take up the same attitude when they are not quite sure what the prosecutor (whether he be a policeman or anyone else makes no difference, of course) will say, and when the charge is not explicit as to details. Similarly, some magistrates prefer that charges that are rather general in their terms and which may not be appreciated in all their essentials by unrepresented defendants should not be put to the accused for his plea until some details of the evidence have been given.

Thus a man might wish to plead guilty to assault, believing that a blow with the fist was the only allegation, and would indignantly deny the charge if he learned to his surprise that he was said to have kicked a man when he was down. A motorist summoned for driving without due care might think that the worst to be said of him was that he drove on the wrong side of a street refuge, and would deny a suggestion that he drove at an excessive speed and almost knocked down an old lady. Or a charge of obstructing the police might be anything from standing in front of a policeman and impeding an arrest to a determined attempt to rescue a prisoner. A plea in the dark might be ill-advised.

Naturally, where the court is in possession of definite facts as to the nature of the charge, it will see that the charge is put to the defendant in such a way that there can be no misapprehension on his part; and if he shows any hesitation about his plea the better course is to treat his plea as one of "not guilty." The defendant, on his side, or his advocate, is amply justified in asking to be allowed to defer the plea until he knows just what it involves. This is no mere matter of tactics, it is a substantial question. A postponement of the plea is much better, in the interests of justice and of the parties, than a plea of guilty followed by a dispute and an application to withdraw the plea.

MOTOR DRIVERS' DISABILITIES.—Courts of summary jurisdiction charged with appellate jurisdiction in connexion with the granting of licences of various kinds have a difficult task and a serious responsibility. Generally it may be taken that the licensing authority is well qualified to judge of the matters in question and has exercised its discretion conscientiously. The justices, however, have a duty to try the matter independently, and sometimes they will feel bound to reverse the decision of the licensing authority.

A case reported last week from Birmingham appears on the face of it to be an example of an appeal with a satisfactory result. An applicant had been refused a licence to drive a public service vehicle because he suffered from occasional deafness. The applicant's case, which succeeded on appeal, and which was supported by medical evidence, was that he was deaf only when in a quiet room, and that in a motor car, with the engine running and the noise of the street traffic, he could hear perfectly. The application was granted on condition that the appellant should always have a conductor and should wear an instrument to aid his hearing.

There is nothing fantastic about the deaf being sometimes able to hear in a noisy place. We have all met cases of a puzzling kind of deafness; men who seem hopeless in ordinary conversation but hear a telephone well enough, or who hear well in a noisy railway train but cannot hear the sermon in a silent church. Others, of course, cannot hear except under conditions of quietness. It is, we believe, partly a question of drums that are too tight or too slack; that, however, is a matter for the doctors, and the important point for other people to realise is that there are many genuine varieties of deafness.

Evidently it does not follow that a man who is deaf in ordinary conversational conditions is unfit to drive a car, or even an omnibus. It is well, of course, that a driver should be able to hear hooters and tram-car bells, although hearing strikes us as less important than sight. A driver of a public service vehicle, naturally, should be able to hear his passengers' requests and inquiries, unless he has a conductor constantly with him.

The question of disability on the ground of defective sight, and whether there is an appeal against a refusal to licence, is the subject of a case now pending in the Court of Appeal, which will be followed with interest.

"Shall have effect as if enacted in this Act."

By SIR ARTHUR QUEKETT, K.C., LL.D.

JUDICIAL interpretations of statute law often attract an interest which is not merely forensic. There is good copy for the press when the Bench propounds the question—What is whisky? or What is a place (within the meaning of the betting laws)? At another time, political interests may be stirred by a judicial decision in the House of Lords, as in the *Taff Vale Case*, which led up to the passing of the Trades Disputes Act of 1906, or the *Osborne* judgment, which pointed the way to the amending enactment of 1913. A recent case decided in the Lords (*Rex* v. *Minister of Health; ex parte Yaffe*) is of general interest as touching a subject which is much under discussion to-day. It deals with the interpretation of the words "shall have effect as if enacted in this Act"—words which are used in numerous statutes to measure the effect of orders, schemes or regulations made by some branch of the Executive in the exercise of power conferred by the statute. The interest of *Yaffe's Case* is two-fold. It supplies further raw material for the technical literature on "Delegated Legislation," "Bureaucracy," or "The New Despotism." It adds, moreover, the latest—and perhaps the final—chapter in the legal history of the statutory formula which is our present concern.

The leading case on the meaning of the formula "shall have effect as if enacted in this Act" was, prior to *Yaffe's Case*, the case of *Institute of Patent Agents* v. *Lockwood* [1894] A.C. 347. The authority of *Lockwood's Case* is not disturbed by the later case, which explains and distinguishes it, Lord DUNEDIN describing it as "the high-water mark of inviolability of a confirmed order." It has often been assumed, by the way, that the formula is of modern invention, and this assumption was certainly made by Lord HERSCHELL in *Lockwood's Case*. In fact, a very close precedent can be found as early as the year 1385, when Parliament gave to the King's Council a power to settle the staples by ordinance:—

> "*Ordinatum est de assensu parliamenti et plenius concordatum quod stapula teneatur in Anglia: sed in quibus erit locis, et quando incipiet, ac de modo et forma regiminis et gubernationis ejusdem, ordinabitur postmodum per consilium domini regis, auctoritate parliamenti: et quod id quod per dictum consilium in hac parte fuerit ordinatum, virtutem parliamenti habeat et vigorem*" [that which shall have been ordered in that behalf by the said council shall have the force and effect of Parliament].

Lockwood's Case was concerned with the construction of a more modern statute. The Patents, Designs and Trade Marks Act, 1883, provided by s. 101 that "the Board of Trade may from time to time make such general rules . . . as they think expedient, subject to the provisions of this Act: (*a*) For regulating the practice of registration under this Act." By sub-s. (3) "General rules may be made under this section . . . and shall . . . be of the same effect as if they were contained in this Act, and shall be judicially noticed." A later Act of

1888 provided that "a person shall not be entitled to describe himself as a patent agent . . . unless he is registered as a patent agent in pursuance of this Act"; and that "The Board of Trade shall make such general rules as are in the opinion of the Board required for giving effect to this section, and the provisions of s. 101 of the principal Act [the Act of 1883] shall apply to all rules so made as if they were made in pursuance of that section." The Board of Trade made the Register of Patent Agent Rules, 1889, and the House of Lords held that the rules having been laid before both Houses of Parliament without having been annulled were of the same effect as if they were contained in the statute, and so long as they remained in force it was not competent to question their authority. All the lords in the case held that the rules were *intra vires*, but some of them also delivered themselves of pronouncements which go very near to supplying an authority for the proposition that the courts have no power to question anything which purports to be done under a statutory authority worded as above. The better opinion seems to be that those pronouncements have no greater weight than *obiter dicta*. They served at any rate to encourage litigation in *Yaffe's Case*, where the *dicta* have been sorted out and put in their proper place by the Court of Appeal and the House of Lords. On the other hand, the dissenting view of Lord MORRIS (a famous Irish law lord) in *Lockwood's Case* more nearly accords with the later decision. "I cannot go to the further proposition," says Lord MORRIS, "that it is not competent for the courts of justice to consider whether these general rules are *intra vires* or *ultra vires* . . . if a court of justice (before whom all these questions must ultimately come) considers that certain rules are rules which do not come within this section, in my opinion they would be *ultra vires*, and it would be the duty of the court not to regard them as operative." In *Yaffe's Case*, SWIFT, J., in the Divisional Court, followed this opinion of Lord MORRIS, and dissented from his colleagues.

Yaffe's Case turned on the construction of s. 40 (5) of the Housing Act, 1925, which provides that an order of the Minister of Health (confirming an improvement scheme) "when made shall have effect as if enacted in this Act." The decision in the House of Lords was concisely noted in THE SOLICITORS' JOURNAL of 4th April, 1931. The question of public importance raised by the case was whether the confirmation of an improvement scheme, good or bad, by the Minister, gave it statutory effect so as to prevent the court from inquiring into it. The Divisional Court held (by a majority) that no question of *ultra vires* could be raised in a court of law. The Court of Appeal held that where a scheme was unauthorised by the Act no order by the Minister in confirmation could have any statutory effect and such an order was liable to be quashed. The House of Lords (Lord RUSSELL OF KILLOWEN dissenting) came to the conclusion that the scheme as confirmed was a good scheme, and on that ground restored the judgment of the Divisional Court in favour of the Minister of Health. They were, however, careful to say that the judgment was being restored "on very different grounds," and that "the Court of Appeal was right in refusing to decide the case on the ground taken by the Divisional Court."

The conclusion of this eventful history seems to be that the words, "shall have effect as if enacted in this Act," cannot be pleaded as an ouster of the jurisdiction of the courts to inquire into a question of *ultra vires*. They were aptly contrasted by SCRUTTON, L.J., in *Yaffe's Case* with a much stronger formula occurring in other enactments, namely: "The confirmation by the Minister *shall be conclusive evidence that the requirements of this Act have been complied with and that the order has been duly made and is within the powers of this Act*." This formula, moreover, has run the gauntlet of judicial interpretation in previous cases.(*) In future, no doubt, when Parliament desires to give complete and unchallengeable finality to acts of the Executive, it will be resorted to in the relevant enactment. But public opinion is setting against the indiscriminate conferring of such a power. The question of Ministerial powers has been examined by a departmental committee, and critically reviewed by writers such as Lord HEWART and Mr. W. A. ROBSON. The signs of the times may be discerned in such enactments as s. 11 of the Housing Act, 1930, and the parallel Scottish enactment of the same year, which are being followed in the Town and Country Planning Bill, and also in a Planning and Housing Bill now before the Northern Ireland Parliament. The principle of these enactments is that any person affected by an order should be allowed a definite interval of time within which to raise legal objections, after which interval the order is to have absolute finality. Adequate notice of the confirmation of the order is to be published, and to be served upon persons who objected at the local inquiry; an aggrieved person may appeal, upon the validity of the order, to the High Court within six weeks after the notice. The court may suspend the order pending hearing of the objection, and may, as a result of the hearing, quash the order either generally or in so far as it affects a particular case. Subject to this, an order "shall not, either before or after its confirmation, be questioned by prohibition or *certiorari* or in any legal proceedings whatsoever." It would be interesting to speculate upon the issue of any attempt by an adventurous litigant to upset such an order after the interval of six weeks had elapsed. Could he rely upon *Reg.* v. *Sankey* (1878), 3 Q.B.D. 379, where an Order in Council was held not to have been made valid by an enactment that "after the expiration of three months . . . such order . . . shall be presumed to have been duly made and to be within the powers of this Act, and no objection to the legality thereof shall be entertained in any legal proceedings whatever"? Perhaps *Sankey's Case* would be distinguished upon the ground that there no specific opportunity for an appeal had been provided, whilst under the Housing Acts of 1930 such an opportunity did occur and had been neglected.

(*) See, e.g., *Ex parte Ringer* [1909] 25 T.L.R. 718.

Domestic Servants and National Health Insurance.

THE insurability of domestic servants, for the purposes of health benefit, arises under the National Health Insurance Act, 1924, s. 1 (1), which provides that all persons of the age of sixteen and upwards, who are employed within the meaning of the Act, shall be insured. The phrase "employed within the meaning of the Act" is defined by s. 1 (2) and the First Schedule, Pt. I, para. (*a*), as employment in the United Kingdom under any contract of service, express or implied, whether the employed person is paid by the employer or some other person, and whether under one or more employers. Part II of the same schedule specifies the exceptions, and para. (*l*) excludes employment of a casual nature, otherwise than for the purposes of the employer's trade or business. By reason of s. 109, the nationality of the servant is immaterial, and therefore, no exemption from liability to contributions can be gained by the employment of Danes, Germans, etc., who work for low wages in return for learning English. The liability of the servant for contributions ceases at the age of sixty-five, under the above Act, s. 7 (3), as amended by the Widows', Orphans' and Old Age Contributory Pensions Act, 1925, 4th Sched., Pt. III.

The employer of any domestic servant, between the ages of sixteen and sixty-five, must affix to her card a health stamp of the value of 1s. 1d. (1s. 6d. in the case of a male servant) for each week, but, under the National Health Insurance Act, 1924, s. 7 (2), the employer is entitled to deduct the employed contributor's share (viz., 6d.) from her wages. This deduction

must only be made, however, in respect of the stamps already fixed for the period covered by each payment of wages, i.e., if there is any delay in stamping the card, the employer is not entitled to deduct the value of the stamps affixed in respect of past periods, for which wages have already been paid in full. After the servant has reached the age of sixty-five, the employer still remains liable for contributions, at the reduced rate of 7d. (9d. for a male servant), but no proportion is recoverable from the servant, and the stamps must be affixed to a special card. These contributions will be due as long as the employment continues, even after the age of seventy, as the employer of an exempt person remains liable under the 1924 Act, s. 6 (1). It may, therefore, be a matter for consideration whether the contract of service of an old servant should not be terminated by releasing her from all duties, whereupon she may forego further wages in return for free board, lodging and clothes.

The distinction between resident and daily domestic servants is recognised by the 1924 Act, s. 9 (5), which provides that, where the contributor is employed by more than one employer in any week, the employer who first employs him (or her) shall be deemed to be the employer. Section 9 (1) (*a*) provides that only one stamp need be affixed each week, but two or more regular employers may agree to pay for it in turn, and (if they wish to place the matter on a formal basis) a printed form may be obtained from the Ministry of Health. A mistress, however, may be (1) unneighbourly, and contend that, as she does not employ the maid or charwoman on a Monday, she is not liable for any stamp; or (2) obstinate, on the ground that, as the maid is only employed as a casual worker, she is not insurable. In neither of these cases can the recalcitrant employer be compelled to pay a just proportion, and the whole burden therefore falls on the mistress who employs the maid for the first day in the week—not necessarily on a Monday.

In this connection, the mistress may have to rely on the word of the maid, or charwoman, that she does not work elsewhere on any other day in the week, so that an unscrupulous employee may collect the money for stamps from more than one mistress. The latter does not discharge her legal liability, however, by paying the contributions to the employed person, and if no card is produced the employer should obtain from the post office an emergency card, to which the stamp may be affixed. Non-production of a health insurance card may be due to the fact that the workwoman is drawing unemployment insurance benefit, and desires to conceal the fact that she is doing daily cleaning.

Under the 1924 Act, s. 6 (1), the employer remains liable for contributions (7d. a week for a woman) even if the servant has obtained an exemption certificate under s. 2, e.g., on account of a pension of £26 a year, or being ordinarily dependent for livelihood on some other person, such as a husband. A card is unnecessary, however, in the case of casual employment, although this is a difficult question to decide. If a charwoman (or a gardener) is employed at regular intervals, this is not casual employment, even if the work is not always done on the same day in each week. Employment for the performance of a particular task, however, such as spring-cleaning or raspberry picking, is casual, and no contributions are due. A temporary servant is therefore not insurable if engaged on one day, e.g., for a tennis party, but, if engaged for the period of another servant's holiday, this is not casual, and a card must be stamped on her behalf, if she fails to produce one. It is noteworthy that, under the 1924 Act, s. 89, any question of whether any employment is within the Act, or whether any person is insurable, shall be determined by the Minister. It was therefore held in *Wood* v. *Burke* (1927), 91 J.P. 144, that proceedings before magistrates must be adjourned, in the event of any such decision becoming necessary in a case before them, as they have no jurisdiction to adjudicate upon the matter.

The Stopping Up and Diversion of Highways.

THERE has recently been published by H.M. Stationery Office a reprint of the report of the Departmental Committee appointed in 1925 to inquire into the law relating to this subject. The report was originally published in 1926, and there is good reason for believing that legislation on the lines advocated by the majority of the members of the Committee will shortly be officially proposed. In view of the importance of the subject, not merely to the legal profession but to property owners, surveyors and estate agents all over the country, it may be useful to see how the law at present stands and what are its defects that call for fresh legislation.

The existing procedure for the stopping up or diversion of a public highway is to be found in ss. 84 and 85 of the Highways Act, 1835, which require a "view" by two local justices, and the enrolment of their certificate with plans, consents and other documents on the records of quarter sessions upon motion for an order to that effect after a variety of notices have been given and other formalities observed. There is an ancient common law maxim "Once a highway always a highway," which can only be over-ridden upon proof to the satisfaction of quarter sessions that the highway under consideration is "no longer necessary" or that a proposed substitute will be "nearer or more commodious."

> "The courts have always held that in any proceeding under Section 85 scrupulous care must be taken to safeguard the rights of the public and secure to them the benefit of the provisions which the legislature has enacted for their protection. But not only has a strict procedure been insisted on; the legislature has also narrowly defined the limits within which the discretion of the tribunal charged with determining applications to stop up or divert highways may be exercised . . . By the Highway Act, 1835, s. 85, the Justices may only give their certificate if satisfied after a view, that the highway 'may be diverted and turned . . . so as to make the same nearer or more commodious to the public,' or, if the proposal is to stop up a highway, that the highway in question 'is unnecessary.'"

So said LORD READING, L.C.J., in *R.* v. *Derbyshire Justices* [1917] 2 K.B. 802. The Committee in their report are "reluctant without good cause shown to disturb a form of words which has been the subject of legal interpretation over a period approaching a century." They therefore apply themselves to the consideration of three other questions only as bearing upon the necessity for any amendment of the existing law, viz., (*a*) What tribunal should have power to make an order for stopping up or diverting a highway? (*b*) Should there be any appeal? and (*c*) What form of procedure is necessary to ensure protection of public interests and to give effective notice and ensure to all interested parties an opportunity of urging their views? These questions embody, in fact, the gist of all complaints as to the trouble and expense attendant upon the obtaining of a closing or diversion order. As regards the tribunals to determine applications, the Committee found themselves unable to agree—the majority, however, advocating a transfer of authority to the justices sitting in petty sessions, with a right of appeal by persons aggrieved to quarter sessions, whose decision should be final. As to the protection of public and private interests the Committee were unanimous in condemning the existing methods of giving notice. In particular they are almost caustic in deriding the present method of publishing "a long verbal description of the highway unaccompanied by any plan," and they express the view that the existing provisions are "inappropriate and unsatisfactory." There is good sense in the reason given why those provisions have survived since 1835:—

> "We feel that the provisions as to notice embodied in the statute of 1835 are archaic and unsuited to modern requirements and cannot be relied upon to ensure the

adequate and clear notice of a proposal to stop up or divert a highway which we consider essential. That the obvious defects of these provisions have been allowed to survive so long is probably due to their embodiment in final form in a section of a *statute*. It is our view that such matters as the method and form in which public notice of a proposal to stop up or divert a highway is to be given are more appropriately and conveniently prescribed in *statutory rules and orders* than in a section of a statute. To amend a statutory rule or order in the light of experience is a comparatively simple matter. To amend a statute on a particular point, unless the point is one of supreme urgency, is notoriously a matter of extreme difficulty."

It is interesting—and probably to the majority of readers of this article will come as a surprise—to learn that already certain municipal corporations have succeeded in persuading Parliament to give them powers of stopping up and diverting highways which entirely over-ride the provisions of the Highway Acts. The most comprehensive illustration of this may be found in the Chatham Corporation Act, 1923, s. 40 of which provides that—

"The Corporation may from time to time, if it shall appear to them that any public highway in the borough may be diverted and turned either entirely or partially so as to make the same nearer or more commodious and the owner of the lands through which such new highway so proposed to be made shall consent thereto in writing under his hand, by order divert and turn such public highway either entirely or partially, substituting therefor such new highway proposed to be made; or if it shall appear to the Corporation that any public highway in the borough is unnecessary, they may by order stop up entirely or partially such highway; and on any public highway being so diverted, turned, or stopped up all public and other rights of way and other rights in, over, or upon the same shall be absolutely extinguished."

Provision is made for publishing notice of intention to stop up or divert in the local press and by placard, but unless any person thinking himself aggrieved gives notice of appeal to quarter sessions the thing will be done. This procedure is altogether too drastic, and it is not surprising that the Commissioners in their report advocate the repeal of any such powers in private Acts and the enactment of new legislation in the form of an amending public general statute.

In this connexion the increasing powers of local authorities need to be carefully watched in two other directions which (though often confused) must be kept quite distinct. In both directions public general statutory powers have already been obtained. The Town Planning Act, 1925 (s. 5 and Sched. I), embodies very definite and drastic powers in regard to highway diversion and stopping up. This statute was in the view of the Committee at the time their report was published in 1926, and their conclusion upon it is by no means so illuminating as it might have been: in fact, it looks very much as though the Committee failed to recognise the extent to which this is linked up with other problems of local government and with the general devolution of authority that is proceeding at the present time. The report, after setting out the provisions of the 1925 Act, merely says this:—

"We have no comment to make under this head save that nothing in any of our recommendations should affect any powers of diversion or stopping up of highways under any Town Planning Scheme."

Since that date another development has taken place of which the Committee, of course, had no knowledge. The Housing Act, 1930, has come into operation. By s. 13 of that statute, a local authority may, with the approval of the Minister, by Order, extinguish any public right of way over any land purchased by them, and thereupon every sort of right *or easement* in or relating to the land will cease subject to the right of any aggrieved person to claim compensation. It is not every claim in a matter of this kind that is capable of being satisfied. One could well imagine a case in which a number of members of the public might be very seriously inconvenienced, not one of whom could possibly recover compensation under the Acquisition of Land (Assessment of Compensation) Act, 1919. It is also easy to see, moreover, that in this and other ways these powers so vested in local authorities may operate harshly upon private individuals; and it therefore behoves all concerned to watch carefully the advent and progress of any legislation upon this subject.

The Cost of Litigation.

(*Continued from p.* 433.)

THE Committee of the London Chamber of Commerce makes the admission in its report that, on the whole, barristers and solicitors are not overpaid for the work they do (para. 8). In the opinion of its members, it is the system and procedure which are responsible for the heavy cost, rather than those who operate them.

Given that barristers and solicitors receive no more than an adequate income for the work they do, the remedy of fusion of the two branches of the profession, recommended by the Committee (para. 14), could only lessen costs by lessening that work. The double task of marshalling the facts of a case, and then presenting them to the court would, however, remain unchanged. The time spent by barristers' clerks in bargaining as to fees and collecting them would, no doubt, be saved—with, probably, an equal debit side in increased bargaining between lawyer and client as to advocacy fees. With every probability, specialist advocates would be called in by lawyers doing routine solicitors' work, just as general practitioners in medicine take their patients to Harley Street. Some more elasticity in changing over might be useful to both branches of the profession, and beneficial to the public, but there would be no economy in the skilled advocate doing routine work, such as filing documents and hunting up witnesses for proofs. The professional reports leave the question of fusion alone.

There is left the question of making the legal machine less costly to work. The Committee likens the situation of the would-be litigant who is not well off to the man who wants a cheap car, and is told he must have a Rolls or Daimler, or go without. Perhaps the *simile* would have been more apt thirty years ago, when a cheap car was liable to break down in the middle of a journey. If the destination of a litigant is justice, and the car he buys is too clumsy to take him there, he is so much the worse off by the cost of it, than if he had started to walk.

The present procedure may be the best yet devised to ascertain disputed facts, and there can be no justice unless the procedure reveals the truth to the court. If a judge finds the facts of a case wrongly, he will almost certainly do injustice, though he may sometimes mitigate the injustice done by the erroneous findings of a jury. When two persons flatly contradict each other as to a particular conversation, or an event such as the collision of two cars, the slow process of examination by a friendly advocate, cross-examination by a hostile one, and re-examination by the first, before a neutral judge, and in public, is found to bring out the truth, if not perfectly, at least better than any other. Pleadings are framed to prevent introduction of irrelevant and prejudicial matter, and therefore, to economise judicial time. Again, unless advocates have high forensic skill and experience, and are fairly well balanced in these qualifications, injustice may be done; with all its faults, our system is better than our ancestors, and modern life is too complicated for the rough and ready justice of the Cadi under a tree.

All the reports linger rather wistfully on the possibility of a preliminary hearing by the judge to narrow and frame the issues. This might indeed save valuable time at the trial—

but if the judge's time in attending both hearings was equal to, or exceeded, the time now needed for one, the gain would not be very apparent. Possibly he might have the affidavit evidence of witnesses before him, and decide who amongst them should be called for cross-examination. He might secure admissions to shorten the case, but O. 32 is already framed to this end. It has been suggested that it is not sufficiently worked, and judges could perhaps go further than they do at present in requiring those who unreasonably demand proof of facts which ought to be admitted to pay the costs occasioned by such proofs. The footpath case, cited in The Law Society's memorandum, well illustrates some of the difficulties which solicitors, barristers and judges have to face. Obviously, the more independent witnesses who can testify to the user of a footpath, the stronger the evidence, but a crowd of them might be put forward to support a concocted story. Their credibility can only be tested by cross-examination. And searching out old records, which may be required for such a trial, is not cheap work. There is a story that a rustic was prepared to swear that a road was a public way because he had seen a funeral pass over it. Thus the solicitor or his clerk collecting evidence has to spend time and trouble in considering the worth of that offered. Then again, a proof may be placed before counsel for his advice, but the whole work is lost if, as sometimes happens, the witness tells one story to the solicitor, and another to the court, causing a waste of time and money which is remembered only against the lawyers.

The other case instanced in the Society's memorandum, raising the question whether a machine functions in accordance with the vendor's warranty, involves, as pointed out, records of its working or output, with possibly, plans and models, and an expert to give the necessary guidance to the court in judging their value. Experts are also required in a variety of other cases, such as whether bulk is up to sample, or as to alleged infringements of lights or patents. The requirement of this guidance brings forward the problem whether it is better to have a neutral assessor, or expert witnesses called on each side. The neutral assessor is the cheaper alternative, but the litigant who finds him adverse, and cannot have him cross-questioned, may feel that he has a grievance. And, as the Lord Chief Justice has observed, there should not even be the semblance of injustice to destroy public confidence. Expert witnesses are, of course, often highly skilled persons, requiring correspondingly large fees, and counsel may have to be coached to cross-examine them.

The writer was once approached by a man, not in a position to afford expensive litigation, who had sent a play to two well-known producers, and complained that, after returning his MS. as unsuitable, they had stolen his ideas. The defence would no doubt have proceeded on a variety of lines—that the alleged infringement differed from the MS., that the ideas in the MS. and the infringement were common to a large number of plays, that the play produced was anterior in date to the MS., etc. Any of these defences might have been good. If this man had launched an action, his advisers would have had to obtain the script of the infringing play—not necessarily in itself an easy task—and compare it line by line and word by word with the other, and then compare both with an unknown number of classical or recognised plays to distinguish new from old ideas. One playwright did in fact obtain damages against a producer, now deceased, for a similar infringement, but he had to put up money for an exceedingly complicated and costly trial, and it is difficult to see how the present procedure applicable could be short-circuited to avoid the expense now attendant on such an action. And an arbitrator would find just the same difficulties as a judge. If any reader can suggest a method of deciding a case like that cheapy and quickly, he will do the public and the profession considerable service if he puts it forward.

The procedure in the County Courts is very much simpler than that of the High Court, yet it is to be noted that the Committee does not advocate the extension of County Court jurisdiction (para. 18). When there is a difficult question of fact to be decided, and the subject-matter of the action renders the choice between County Court and High Court possible, the economy of the former will seldom outweigh the more satisfactory results to be obtained in the latter, although at so much the greater expense.

If, on the suggested preliminary hearing, the judge and the solicitors could fix on a figure as the upper limit of the legal costs which either party should be called upon to pay on defeat, the litigant would know how he stood at the earliest possible moment. Possibly the presence of a taxing master would be valuable on such an occasion. The uncertainties of the bills of costs under the present procedure no doubt strongly deter those with grievances from seeking legal redress for them.

Retrospective Legislation.

THERE has been correspondence in the Press as to the possibility of a clause in a bill before Parliament defeating such chance as a certain successful litigant against the Crown might have had, on the appeal of the Crown against the judgment in his favour. Whatever limitations may be imposed on the legislature of the United States of America by its Constitution, there can be no possible doubt that Parliament can pass an Act to have retrospective force, and on occasion it does so. The injustice of destroying a particular vested interest is nevertheless so obvious that it is as a rule only done in most exceptional circumstances, in which the Legislature deems that some unexpected result of the law works a greater injustice than the destruction of all vested interests built on it. A curious instance arose in the litigation between the late Mrs. GEORGINA WELDON and her husband. She obtained a restitution decree against him, and, on his expected—indeed, almost inevitable—disobedience to it, followed it up with a summons for his attachment. This procedure had been in abeyance since the Matrimonial Causes Act, 1857, and probably for years before; nevertheless, she triumphantly proved that the judge had no option but to issue the order, and, practically on her command, he did so under protest: see *Weldon* v. *Weldon* (1883) 9 P.D. 52. Mr. WELDON entered an appeal, thus procuring a stay of the order, and meanwhile, no doubt at the judge's instigation, Parliament bent its energy on passing the Matrimonial Causes Act, 1884, abolishing imprisonment for contempt of a restitution decree. Whether that hurried Act, which established the "statutory desertion," used until 1923 as a foundation for the modern quick divorce by mutual consent, was a wise one is a matter of opinion, but its result on Mrs. WELDON's vested right to have her husband imprisoned was undoubted. The Act was passed, and Captain WELDON dropped his appeal, which in effect was only made to keep him free until Parliament came to his rescue. Mrs. WELDON returned to the court when the appeal was withdrawn, contending that the Act was not retrospective to destroy her right; since, however, it was passed with that definite object, HANNEN, J., had no difficulty in finding that it had done so: see *Weldon* v. *Weldon* (1885) 10 P.D. 72.

The more usual procedure, however, when a case reveals an unexpected and undesired result of legislation or precedent, is to reverse the law with a saving for previous judgments under it. A typical instance is seen in the case of *Godden* v. *Hythe Burial Board* [1906] 2 Ch. 270, and the Burial Act, 1906. In the case the Court of Appeal held that, under s. 9 of the Burial Act, 1855, anybody who built a house at any time could restrain burial in any new cemetery within a hundred yards of it. This was plainly not intended by the framers of the Act, but ROMER, L.J., said that "he had struggled against this result, but s. 9 was too strong for him." The statute of 1906 enacted that the privilege of forbidding

burial within the hundred yards should only apply to houses already built at the passing of the principal Act, but there was a proviso that nothing in the section should affect any judgment or order of a competent court passed before a certain day previous to its passing. Thus the law was changed, but not to the disadvantage of one who had already asserted a vested right under it.

In respect of vested rights against the Crown, however, Parliament, perhaps largely swayed by successive Chancellors of the Exchequer, desperately grasping at the taxpayer's last penny, has not been so punctilious. There was a remarkable example in s. 25 of the Finance Act, 1921. The Finance Act, 1920, was framed so as to exclude the taxpayer from the benefits of ss. 43 and 44 of the Income Tax Act, 1918. By some gross blunder, however, those sections were not explicitly repealed, and s. 14 (2) generally preserved all the previous income tax law. Certain taxpayers, whose watchful advisers had noted the blunder, sought to take advantage of it. To prevent them doing so, s. 25 of the Act of 1921 provided that "For the purpose of removing doubts," ss. 43 and 44 of the Income Tax Act, 1918, were not continued in force for the year 1920–21, and it further provided that, if any person had been assessed and charged on the footing that the sections remained in force "all such adjustments, amendment of assessments and payments of tax" should be made as might be necessary for securing that, in every case, the tax should be levied on the basis that the sections had been repealed. This in effect was retrospective taxation, for the statutory recital of doubts related to a matter on which no doubt could exist. The Act would have been more honest if its retrospective action had been openly admitted.

It is said that there are a number of actions by informers pending in respect of penalties incurred by the proprietors of London cinemas under the Sunday Observance Act, 1781, and that they are anxious to obtain their judgments before an Act depriving them of future reward is passed. Possibly, however, by the expedient of an appeal, with stay of execution, the informers might find themselves confronted on appeal, like Mrs. WELDON, with a statutory bar to their remedies which did not exist when they issued their writs.

Champerty in India.

CHAMPERTY is defined in "Stroud's Judicial Dictionary" as "maintenance in which the motive of the maintainor is an agreement that if the proceeding in which the maintenance takes place succeeds, the subject-matter of the suit shall be divided between the plaintiff and the maintainor." As was said by FLETCHER MOULTON, L.J., in *British Cash and Parcel Conveyers, Ltd.* v. *Lamson Store Service Co., Ltd.*, 77 L.J. K.B. 649; [1908] 1 K.B. 1006, what constituted maintenance in the eye of the law was a difficult question, and the authorities on the point were far from being in harmony. The truth of the matter is, that the common law doctrine of maintenance was formulated centuries ago, and based on notions then existing as to public policy. Those notions have long since passed away, and it is indisputable that the old common law of maintenance is to a large extent, obsolete. His lordship later said, that it was undoubted that there still was such a thing as maintenance in the eye of the law, and that it constituted a civil wrong and perhaps a crime, and that the general character of the mischief against which it was directed was familiar to all. It was directed against wanton and officious intermeddling with the disputes of others in which the defendant had no interest whatever, and where the assistance he rendered to the one or the other party was without justification or excuse.

In India the position with regard to maintenance and champerty is very different from that which exists in this country. "Maintenance and champerty," said SCOTLAND, C.J., in *Pitchakutti Chetti* v. *Kamala Nayakkan* (1 Mad. H.C.R., 153), "are made offences by the common law and statute law of England, which in this respect has no application to the natives of this country (India), and in considering and deciding upon the civil contracts of natives on the ground of maintenance and champerty, we must look to the general principles as regards public policy and the administration of justice upon which the present law rests." An interesting Indian appeal in which the question of champerty arose recently came before the Judicial Committee of the Privy Council (*Valluri Ramanamma* v. *Marina Viranna*, 13th February). The appellant, in 1916, was entitled to certain immovable properties of considerable value, which had devolved upon her as her mother's *stridhan*. They were withheld from her by her brother, who was apparently a man of position and influence. Attempts had been made to settle the claim, but nothing was effected, and the period of limitation was approaching. It was decided, therefore, that a suit must be instituted. Under those circumstances it was thought desirable to secure the assistance of the respondent, who was the brother-in-law of the appellant's husband and a man of considerable wealth. A document was accordingly drawn up by the terms of which the respondent was to contribute one-quarter of the costs of the litigation, and, in the event of failure, to pay one-quarter of any costs that might be awarded to the other side; and in return the appellant was to make over to him one-quarter of whatever she might recover. One part was executed by the respondent, and the other by the husband of the appellant in her name. The suit was launched, and was eventually successful, but after some disagreement the respondent did not in fact get possession of his agreed share—about 13 acres of land, and he brought an action to enforce the agreement.

The real issue in the case was whether the appellant authorised the execution of the documents by her husband in her name. She denied all knowledge of the transaction, and her husband did not give evidence. The Privy Council held that the document was executed by the appellant. The subordinate judge, before whom the case first came, thought that the contract was champertous; that the benefit which the respondent was to derive under it was disproportionate to the sum which he was to contribute to the costs of the litigation and the services which he was to render; and that under those circumstances the bargain should be regarded as unconscionable and extortionate. The High Court, on appeal, took a different view, and held that the agreement was made *bona fide*, and that its object was not improper; that the risk undertaken by the respondent in what might have been a prolonged litigation was considerable; that the appellant was not in a necessitous condition, and that the whole arrangement partook of the nature of a family agreement. They accordingly came to the conclusion that there was nothing extortionate or unconscionable about it, and they awarded the respondent his quarter share upon a partition of the properties between him and the appellant. The Privy Council, in agreeing with the High Court, said: "It has long been held that in India agreements to finance litigation in consideration of having a share of the property if recovered are not, *per se*, opposed to public policy. They may be so if the object of the agreement is an improper one, such as abetting or encouraging unrighteous suits, or gambling in litigation; or their enforcement against a party may be contrary to the principles of equity and good conscience, as unconscionable and extortionate bargains." In the present action, however, nothing had indicated that the agreement was opposed to public policy.

The views of the Indian Courts on maintenance and champerty have not, however, always been by any means uniform, and great diversity of opinion has prevailed. In the earliest case, in 1825, a pauper plaintiff, in his petition of appeal to the Sudder Court, disclosed the fact that he had

agreed to give half the estate in litigation to another person in consideration of advances made to prosecute the appeal. The court, after directing a search in the records for precedents of such a transaction, and none having been found, declared that "the transaction savoured strongly of gambling," and also that the contract to give half of a large estate for a comparatively small advance was "by no means fair," and ordered that unless the agreement was cancelled the appeal should not be entertained. That was the opinion of the Indian Courts down to 1849. Then, in 1852, came a remarkable change and a doctrine laid down which has since been accepted. In *Kishen Lal Bhoonick* v. *Pearee Soondree* (S.D.A., 1852, Beng. 394), Sir R. BARLOW said that there was no distinct law in their code which laid it down to be illegal for one party to receive and another to give funds for the purpose of carrying on a suit on promise of certain consideration in the form of a share of the property sued for. In the same case Mr. WELBY JACKSON said that, whilst he thought the precedents of the court had held champerty to be illegal, "the matter having been now brought up generally for consideration before the whole court, I have no hesitation in declaring my opinion that an arrangement of the nature of champerty is not of itself illegal or void," and later he repeated that there was no reason why such an arrangement should be declared illegal. The other judges in the same case held that, as between the plaintiff and a party advancing funds to him to carry on his case, the courts would not recognise and enforce agreements which appeared to be exorbitant and to partake of the nature of gambling contracts. That case seemed to have been regarded as a leading case, but extremely strong views on the undesirability of recognising champertous agreements were expressed in India twenty years later by HOLLOWAY, J., in no uncertain words. "In this country," he said, in *Mulla Jeffarji Tyeb Ali Saib* v. *Yacali Kadar Bi* (7 Mad. H.C.R. 128), "it may be added that this is now the favourite instrument for revenging private quarrels. A suit against a man's enemy is commenced in the name of another, promoted by the money of the enemy, and sustained by the perjury which he suborns. The state of Hindu society with joint families, dissatisfied junior members, adoptions real or fictitious, affords a fine field for the operations of these speculators in litigation. At the elbow of every man with a grievance, real or imaginary, is one of these unclean animals busily engaged in fanning into a law suit every trifling difference . . . Let a man with the smallest knowledge of this country cast his eyes upon the wide-spread ruin and immorality created by these proceedings, and he will scarcely doubt that it is contrary to public policy, if the welfare of a country is any element therein, to permit these creatures to bargain for the proceeds of the litigation which they have commenced, fomented and carried on without the smallest interest, other than a nefarious bargain in the suit which they are conducting."

Again, in *Ram Coomar Coondoo* v. *Chunder Canto Mookerjee* (2 App. Cas. 186), COUCH, C.J., pointed out that champertous agreements, although in a sense illegal, did not amount to an offence in India so as to give a right of action to a person who might sustain special damage from it, even if such an action might now be maintained against a person committing the offence of champerty in England. On the other hand, the authorities showed that the Indian Courts would not sanction every description of maintenance. They would consider whether the transaction was merely the acquisition of an interest in the subject of litigation *bona fide* entered into, or whether it is an unfair or illegitimate transaction got up for the purpose merely of spoil or of litigation disturbing the peace of families and carried on from a corrupt and improper motive. In India, then, it may be inferred from the authorities that a fair agreement to supply funds to carry on a suit in consideration of having a share of the property, if recovered, ought not to be regarded as being, *per se*, opposed to public policy. "Indeed," said Sir MONTAGUE SMITH, in *Ram Coomar Coondoo* v. *Chunder Canto Mookerjee*, *supra*, "cases may be easily supposed in which it would be in furtherance of right and justice, and necessary to resist oppression, that a suitor who had a just title to property, and no means except the property itself, should be assisted in this manner."

Arbitration and Valuation.

A RECENT case in which the present writer was concerned (but which did not actually go to trial—the parties agreeing to a settlement) raised an issue which is of old-standing interest, but upon which the last word has not yet, apparently, been said by the judiciary. It is of particular, but not exclusive, importance to agriculturists. The facts of the case in question, briefly stated, were that an agricultural holding, consisting of a fruit farm, market-gardening and bulb-growing land, and glass-houses, was let by a landlord to a tenant under an agreement in which the term "agricultural holding" did not appear at all, nor was there anything to distinguish the agreement in question from an ordinary agreement between landlord and tenant except that it contained a clause providing that the tenant-right valuation should be settled by two assessors, one nominated by the landlord and the other by the tenant, with power to them to nominate an umpire if they failed to agree; otherwise they were to settle the figure to be paid to the tenant.

In due course the tenant-right valuation had to be made and assessors were nominated by the parties. These assessors met and after a rather prolonged detailed inspection (and no little argument) agreed a certain figure. This was embodied in a memorandum signed by the two assessors, a copy of which each handed to his principal. Thereupon the landlord indignantly refused to pay any such sum to the outgoing tenant (there being no incoming tenant at the time), declaring that it was greatly in excess of what the true figure should have been, and roundly accusing his assessor of negligence and incompetence. The assessor so accused thereupon suggested that the matter be referred to the umpire (an umpire had been agreed upon by the assessors before they started their work). To this the landlord refused to consent, and after some further disputation, paid the amount stated to the outgoing tenant and commenced an action for negligence against his own assessor. The defence to the action, apart from a denial of negligence, was that, inasmuch as the holding in question was an agricultural holding within the meaning of the Agricultural Holdings Act, 1923, a "question or difference" had arisen within the meaning of s. 16 of that statute, which must be determined (as there laid down) by a single arbitrator in accordance with the provisions of Schedule II; and therefore, that the action was misconceived, the landlord being under no legal obligation to pay over the sum in question even though his assessor had agreed it with the representative of the tenant.

This defence, of course, raised two preliminary questions of very considerable interest. First of all, what was the true status of these "assessors?" Were they acting as valuers or as arbitrators? In the second place, if, in fact, this was an agricultural holding, could an action lie against the landlord's assessor? The distinction between a valuer and an arbitrator in a case of this character was dealt with in *Hammond* v. *Waterton* (1890), 62 L.T.R. 808. There an agreement made between the purchaser of certain land and the occupying tenant (a nurseryman and market gardener) provided that the tenant should give up possession before the expiration of his lease and that the amount of compensation to be paid to him, both in regard to such giving up of possession and also in regard to his ordinary tenant right, should be determined by two named arbitrators—a seedsman and a market gardener—and, in case of difference between them, by an umpire to be appointed

by them. The arbitrators differed, and the amount to be paid was assessed by the umpire they had appointed. It was held that this was merely a *valuation*—not an award—and, as such, not enforceable by execution under s. 12 of the Arbitration Act, 1889.

The ground of the decision was set out by both the judges of the Divisional Court who heard the appeal. It was to the effect that in every case it is necessary to look, not at the exact words of the agreement, but also at the subject-matter with which that agreement deals. Then it can be ascertained whether the parties intended a mere valuation or an arbitration. The fact that an umpire is to be appointed in case the "arbitrators" are unable to agree does not, of itself, constitute the proceedings an arbitration. Reference was made to the case of *Carus-Wilson* v. *Green*, 18 Q.B.D. 7, where it was pointed out by the Court of Appeal that the umpire was not called in to settle *judicially* any matter in controversy between the parties; but that he was by the exercise of his own knowledge and skill, to make a valuation, *the object of which was to prevent disputes from arising and not to settle them after they had arisen.*

In *Re Hopper* (1867), L.R. 2 Q.B. 367, which was referred to in *Hammond* v. *Waterton* (also a case of a farming lease which provided that each party should appoint a valuer and the two valuers should estimate the compensation), it had been decided that an "arbitration" would arise when the matter assumed the character of a judicial enquiry to be conducted upon the ordinary principles of hearing the parties and their witnesses. In *Turner* v. *Goulden* (1873), L.R. 9 C.P. 57, two valuers, one chosen by either party, were engaged to fix the price of the goodwill, stock and effects of a business, and plaintiff employed defendant as his valuer, and the two valuers agreed the amount. Subsequently in an action by the plaintiff against his valuer for negligence in making the valuation so that it was fixed too high, the court held that the defendant had not acted as an arbitrator, but as a valuer, and that as a valuer he was liable to his principal for *negligence*. Had the court found that the defendant acted as an arbitrator, he could not have been sued except for *misconduct*.

The distinction, therefore, would seem to be quite clear. An arbitrator is a person acting in a *judicial* capacity, and as such his finding can only be disturbed by showing that he misconducted the arbitration. A valuer, on the other hand, is merely an appraiser, liable to be sued by his principal if he should act negligently in making his appraisement.

"You cannot make a valuer into an arbitrator by calling him so, or *vice versa*" (*Taylor* v. *Fielding* (1912), 56 SOL. J. 253).

Dealing now with the second question propounded above, viz., whether if the holding be in fact an *agricultural holding* any action would in such a case be against the landlord's "assessor" or "valuer," that would depend upon an interpretation of the actual terms of the Agricultural Holdings Act, 1923. Given a wrong valuation, is the landlord who employs the valuer entitled to pay the amount arrived at by that individual in consultation with the other side, and then sue his own valuer for damages for negligence, or must he have recourse to the procedure laid down by the statute? (It goes without saying that if the "assessors" acted as arbitrators no action would lie against one of them, and the only ground for setting their award aside would be that of misconduct.)

Section 1 (3) of the Agricultural Holdings Act, 1923, saves the right of a tenant to claim any compensation to which he may be entitled under custom *agreement* or otherwise in lieu of compensation provided by the section, thereby contemplating an agreement outside the Act so far as "improvements" are concerned (see as to these also s. 16 (3)). Section 50 avoids any contract inconsistent with the Act; and s. 54 provides a general saving of the rights of parties to a tenancy contract. It is submitted upon these provisions that the landlord who is not prepared to adopt the valuation made by the valuer he has himself appointed—such valuer not being in law an arbitrator—is not under obligation to pay over the amount notwithstanding that his valuer has agreed it with the valuer for the tenant, but that he should withhold payment and demand an arbitration under the provisions of s. 16 of the Act. The matter, however, is not free from difficulty, and there does not appear to be any decision actually in point. It would, however, seem that an action for damages for negligence against the valuer would involve a fresh arbitration to determine whether, in fact, the valuation objected to by the landlord was, or was not, a fair valuation; and in any event the procedure would open up a long vista of enquiry and litigation!

Police Courts.

POLICE courts are differently regarded. To some they are sad and gloomy places on the threshold of which hope should be deposited like the shoes of the faithful who go to prayer. To those who read only newspapers, they are theatres wherein a senile harlequin raises roars of laughter at the expense of the poor, the unfortunate and the wicked. And to the student of detective fiction they are full of mystery and imagination, more full perhaps of the latter quality than the ordinary reader surmises. And in fact they are, despite the inevitable intrusion of sadness, places of hope and inspiration.

The police court of fiction cannot be passed over without notice. It is to the police court that all the characters of the comedy adjourn for the penultimate chapter.

The unlamented corpse of the murdered man is still unburied and the proceedings partake somewhat of a coroner's inquiry and somewhat of a trial at Assizes. There is a jury, of course, but to balance that anomaly, the Attorney-General, who prosecutes without instructions or junior, wears robes and a full-bottomed wig.

The defence is undertaken by a newly-called and handsome junior at the request of the prisoner's sister. He has spent a sleepless night at the scene of the murder, and this vigil has to take the place of a solicitor client and ordinary instructions.

He makes a large number of submissions, during the prosecution, which despite his habit of addressing the magistrate as "M'lud" are very properly rejected. His speech to the jury is a miracle of florid irrelevance, which, rather to the reader's dismay but unsurprisingly, results in a verdict against his client. At this point, however, the young counsel shows resource and justifies his position as hero of the novel and candidate for the hand of the prisoner's sister.

Before sentence of death can be passed by the bewildered magistrate, who has perhaps never before been called upon to do such a thing, our young friend introduces from the back of the court the real murderer, who has up till now been pardonably reluctant to come forward. This man, without of course any nonsense about being sworn as a witness, makes a statement which completely exonerates the prisoner; *non obstante veredicto*, the latter is discharged and the former commits an act of dignified suicide.

Alas, that the police court is not quite of this order!

The big cases, the indictable cases, that the public know, pass through the police court without undue sensation. Important as are the preliminaries of a serious charge, these are not in one sense characteristic of the court.

It has been said that these courts are full of hope and inspiration. There was once an elderly lady with a taste for drink. She liked it, but she could not take much and it always overcame her, so that it became a settled habit for her to be found incapable in the public streets and to be convicted at one or other of the courts in the neighbourhood. This went on for forty years.

Other people came and went, till there was not a magistrate, or a policeman, or a probation officer who was not her junior in those precincts. The memory of man had ceased to run to the time when she was unknown there. All the churches had a go at her, Roman Catholic and Church of England, Salvation Army and Church Army. And the chaplain and the welfare worker reported her "hopeless." And then after forty years she found the last essential little bit of self-respect to pull herself together. And she did it and she has gone on doing it. The inspiration came to her from or at least through the court. And that ill-omened, ill-begotten, un-Christian and inappropriate word "hopeless" has been expunged for all time from the police court dictionaries.

The magistrate in a London court is uncle, solicitor and father confessor. He spends anything up to an hour a day advising on law, domestic politics, hire-purchase agreements, married life, citizenship, kitchen boilers, management of children, care of dogs, marriage and burial and kindred topics.

Sometimes the advice is wanted. Sometimes the applicant only wants to blow off steam and is just as pleased by a sympathetic snubbing as he or she would be by being encouraged.

There are bad people, just a few, people who for some reason or other prefer wrong to right, people who have to be handled firmly.

But in the police courts, it is mostly help that is wanted, help to manage themselves or their families and affairs, and to overcome their weaknesses or the storms of fate—help in one form or another in at least 95 per cent. of the cases.

But the police court, with its moments of sadness, is not a sad place; it is a temple of hope and of inspiration and a power for good in the social system. It is an asylum to which people come voluntarily, as well as an abode of judgment to which they are brought by the arm of the P.C.

Articles left in Omnibuses.

A NEW penalty has recently been imposed on those who are careless enough to leave an article of any value in public service vehicles (not being such as ply for hire by short stages in the City of London or the Metropolitan Police District), at any rate if they fail to reclaim the articles left within twenty-four hours of the conclusion of the vehicle's journey. Under s. 94 of the Road Traffic Act, 1930, the Minister of Transport has power to make regulations concerning the safe custody and re-delivery or disposal of property accidentally left in a public service vehicle and fixing the charges made in respect thereof. Provisional regulations, dated 21st May, make it incumbent on the conductor of a public service vehicle, or, in a vehicle which does not carry a conductor, the driver, to search at or before the termination of any journey for property accidentally left in the vehicle *and as soon as may be* and in any case within twenty-four hours, *if not sooner claimed by the owner*, to hand any property found to the owner of the public service licence issued in respect of the vehicle, or his representative appointed for this purpose. If the owner of the property claims it within three months, it is to be delivered to him on proof of title and on payment of Is. plus one-eighth of the value, or £5 if the value is over £40. If the value does not exceed 8s. the owner of the property must pay 2s. The licence-holder is to retain Is. and to hand the one-eighth of the value, not being more than £5 nor less than Is., to the conductor (or if no conductor the driver) as his reward. In case of non-agreement between the passenger and licence holder as to the value of the property a licensed appraiser is to be called in, whose fee is payable by the claimant. If the property is not claimed for three months it vests in the licence-holder, who has the option either to hand it to the conductor (or driver as the case may be) or sell it; and in the latter case he must pay the conductor (or driver) one-eighth of the proceeds, or £5 if the proceeds amount to more than £40, or Is. if the amount is less than 8s. In the case of property of a perishable nature the licence-holder may destroy it or otherwise dispose of it if not claimed within forty-eight hours from the time it was found. If a conductor who finds the property goes off duty before the termination of the journey he must hand it to the conductor who replaces him, but the former is the one entitled to the reward (if any). Any passenger finding such property must *as soon as may be* and in any case within twenty-four hours of the conclusion of the journey if it is not sooner claimed by the owner, hand it to the conductor, or if no conductor, to the driver. The penalty for breach of these regulations, whether by a passenger, conductor, or driver, or by a licence-holder or his representative, is a fine of not exceeding £5. In the case where the licence-holder is his own driver and has no conductor, it does not seem that the regulations are applicable at all. If he has a conductor, it appears clear he cannot waive the obligation of the passenger to pay the conductor's reward, though doubtless the latter could do so. One or two points are left doubtful. The rules speak of "property." If two or more separate articles are left by the same passenger, can the conductor claim his reward in respect of each article? If the conductor, as in most cases he will be bound by the regulations to do, hands property found to the licence-holder or his representative before the expiration of twenty-four hours, must the owner pay, even though he puts in a claim within that period? On the literal reading of the regulations it would seem that he is liable to do so, though if the property is still in the conductor's hands a claim within twenty-four hours will relieve the owner from legal liability to pay anything, as the reward is only payable in respect of property retained by the licence-holder, or his representative, in pursuance of the regulations. Another point of interest to lawyers is the question of value. If a reward is claimed in respect, say, of a parcel of title deeds, how can the value be appraised?

A Fishing Holiday in Ireland.

A CORRESPONDENT who has been salmon fishing in Ireland has sent some account of his holiday. Much of his letter is more suitable for "The Field" or the "Fishing Gazette" than THE SOLICITORS' JOURNAL, but his comment on the summary jurisdiction system in the Free State will be of interest to readers who have been following the correspondence on that subject in our columns.

"In Ireland," he writes, "summary justice is administered by a district judge, who takes the place of the old bench of magistrates." "Five shillings," he was told, "used to be able to buy the bench" But *himself*, that is, the district judge, is a different proposition altogether. "If I was to go down on to my knaas to that one," said one good lady of the County Kerry, "it is no manner of difference 'twould be making at all."

The days, one supposes, are past in England when five shillings would buy a bench, but the observation is nevertheless interesting to English readers.

Our fishing friend very properly declines to specify the exact locality where he has been casting flies upon the water.

He feels probably that if all readers of THE SOLICITORS' JOURNAL should pack up rods and trunks after reading the Summer Special Number, the water would soon be overcrowded, but some of what he says may give valuable hints to solicitors with holidays still before them.

The crossing Fishguard to Cork should be chosen, because of the luxury and comfort of the new motor vessel "Innisfallen" of the City of Cork S.P. Company. She is a 3,600-ton boat, doing 18 knots, built like an ocean liner, and fitted according to the last word on sea-going comfort.

There is a first-class railway hotel at the port of departure for those who like to travel leisurely, and the roads from Cork to the Atlantic Coast are on the whole good, though they become less so north and west of Killarney.

Travellers from the London direction, who are able to go by road, will find that it takes them through some of the choicest English country. They will see something of the valleys of the Thames, Usk, Wye and Severn, and something of the mountains that lie between Abergavenny and Haverfordwest.

Assizes were in progress during our correspondent's stay in Ireland, and when the weather turned unpropitious for fishing a great body of fishermen and fisherwomen sought relief, and, of course, instruction, in the law.

This would be rather a busman's holiday for members of the legal profession, but the soldiers and the doctors with their ladies, who people the rivers and loughs of Kerry at this season of the year, found great amusement in driving fifty miles to hear a fishing dispute, concerning a claim to net, argued and decided at Killarney.

Killarney is a little disappointing in 1931. The old sadness and natural beauty are there, but in some unaccountable way there is an air of running to seed about the place.

An old visitor striving to recapture former impressions of the place penned the following beautiful lines:—

THE WATERS OF KILLARNEY.

The thirty years have gone, that came
(My figure's come, my hair has gone),
But still Killarney is the same;
There never will be but the one.
I love its every sod and stone.
They set my heart and soul aflame;
Their sadness makes me weep and moan,
But still I'm glad to think I came.

* * * * *

And, best of all, when food I munch,
There's still the same old prunes for lunch.

How many English visitors have seen the home of Dan O'Connell, the Liberator, in that most beautiful of spots Derrynane?

It is full of memories of the fight for Catholic Emancipation, and you may try on the Liberator's hat, if you wish, or, rather, you must try it on, for the guide will take no refusal.

On the wall hangs the great man's Patent of Precedence as a member of the Bar, a document not seen to-day except in museums.

The relics have a pathetic air somewhat, and a very modern "Kerry Blue" terrier added a touch a week or two back, by scratching a hole in the presentation bed quilt sent to the Liberator by friends and admirers in England.

Our readers who find time and opportunity to pass by Derrynane should not miss seeing the private Chapel, where Mass is still said, where O'Connell used to hear it, sitting in a draught-proof chair of his own design.

"It's a great country, Ireland," our correspondent concludes, "for a holiday."

THE OLDEST CORONER.

Mr. John Graham, the Durham County Coroner, was ninety-eight on Monday. He is the oldest coroner in Great Britain who has been holding inquests—sometimes three a day—for sixty years, and is the only surviving coroner who owes his position to the votes of freeholders. He was nominated by two electors and appeared before the freeholders in the town hall to seek their suffrage.

"If there were Adams and Methuselahs in the past," he asks, "why should there not be similar people to-day?"

Mr. Graham was married for the third time in October. His bride, Miss E. Ashton, was in her seventieth year, and the wedding took place at All Saints' Church, Upper Norwood, S.E.

Company Law and Practice.

LXXXVI.

DIRECTORS' MEETINGS—III.

ANOTHER difference between the law relating to meetings of the company and that relating to meetings of the board of directors is disclosed when we consider what can be done by the constituent members of the two respective bodies without their being assembled together at a meeting. In the case of *Parker & Cooper Ltd.* v. *Reading* [1926] Ch. 975, it was held that a company was bound, in the case of an honest and *intra vires* transaction entered into for the benefit of the company, by the unanimous consent of the corporators, even though such consent was not given at a meeting, but was given informally and, as regards different corporators, at different times.

But it is apparently otherwise so far as meetings of directors are concerned. In *D'Arcy* v. *The Tamar Kit Hill & Callington Railway Co.*, L.R. 2 Ex. 158, which was a case of a company governed, so far as is material for our present purpose, by the Companies Clauses Consolidation Act, 1845, the secretary of the defendant company affixed the company's seal to a bond on the authority of three of the directors, the assent of two of them having been obtained at a private interview at the house of one of them, and the assent of the third having been obtained by the secretary meeting him in the street, and there asking him for authority. There were more directors of the company than three, but only three were necessary to form a quorum, and the affixing of the seal by the secretary would have been in order, if he had been properly authorised in that behalf. The Court of Exchequer (MARTIN, BRAMWELL, CHANNELL and PIGOTT, BB.) unanimously decided that the secretary was not properly authorised, holding that the board must act together. The judgments in this case do perhaps go to the length of suggesting that there must, in any event, be a meeting—thus, CHANNELL, B., says: "Without saying that the board are bound to meet at any particular place, yet when an authority is given to a less number to bind the whole body, they must meet in some place where all may be present, and may have the opportunity of expressing their assent or dissent"—but it seems to be at least open to argue that, notwithstanding that case, the unanimous consent of all the directors would be sufficient to bind the company in a proper case.

Indeed, all the judgments, except perhaps that of MARTIN, B., do somewhat emphasise the point of a quorum being necessary: and BRAMWELL, B., in particular, seems to lay stress on this, by saying that the seal could not properly be affixed, except by the authority of such a number of directors as had power to act for the company, acting jointly and as a board, and then proceeding as follows: "This is clearly the intention of the Act; and it is an obvious consideration that, if it were otherwise, a quorum of directors might meet at one place with power to act for the company, and another quorum might, at the same time, meet at another place, with equal power and come to an opposite determination."

The unanimous consent of the directors would obviate any danger of the kind adumbrated by BRAMWELL, B., in the above sentence, though it would, of course, deprive the company of the advantage of the deliberation together of the directors, a deliberation which might conceivably result in a change of opinion, unanimous though they may have been beforehand to act in a particular way. And it is on this collective wisdom of the directors as a body that the courts have, from time to time, laid some stress.

The decision in the above case is one which has reference to a company the constitution of which was to be found in the Companies Clauses Act, 1845, as incorporated and extended by the defendant company's special Act, but in *Re Haycraft Gold Reduction & Mining Co.* [1900] 2 Ch. 230,

COZENS HARDY, J., applied the decision to the case of a company registered under the Companies Act, 1862. There the question arose as to whether a meeting of the company had been effectually summoned by notices sent out by the secretary, he not having obtained the authority of the board, given at a board meeting, to the sending out of such notices. The evidence of the secretary on this point was that he spoke through the telephone to one director, had a conversation with the chairman, and wrote letters to the other directors, who replied leaving the secretary to fix his own day. In the course of his judgment, COZENS HARDY, J., referring to *D'Arcy* v. *Tamar Kit Hill & Callington Railway Co.*, *supra*, says: "That case turned upon the Companies Clauses Consolidation Act, 1845, but it seems to me to be equally applicable to a limited company under the Act of 1862," and his lordship proceeded to hold that the company meeting had not been effectually summoned. There is nothing in this decision, either, which precludes the possibility of arguing that unanimous consent is sufficient: it does not appear from the report that every director gave his consent to the summoning of the meeting; though it does appear that some of them did not approve any particular day, and also that there was nothing to show that any director was asked to approve of the resolution which was actually proposed at the meeting summoned by the notices sent out by the secretary on such authority as appears above. These two latter omissions would appear to be sufficient of themselves to damn any meeting so summoned, without discussing the question as to whether or no all the directors had given their consent, for their consent, even if unanimous, to the summoning of a meeting on such day as the secretary cared to fix, for the purpose of considering, and if thought fit, passing such resolution as the secretary cared to propound, could hardly be held to validate a meeting summoned by the secretary on those lines.

(To be continued.)

A Conveyancer's Diary

By HERBERT W. CLEMENTS, Barrister-at-Law.

Restrictive Covenants Affecting Land in Connexion with Vesting Assents.

The question which I venture to think may be of interest to readers of "A Conveyancer's Diary" and which I propose to discuss is, when should a vesting assent refer to and expressly pass the right to enforce restrictive covenants which may have been enforceable by the testator or intestate of the personal representative by whom the assent is given?

I may say at once that I have not seen any precedent in any of the books, upon which conveyancers are accustomed to rely, in which any mention is made of such covenants, although it seems that there will often be cases where, without any special reference, the benefit of restrictive covenants may not, by virtue of the assent, vest in the person in whose favour it is given. A precedent of that kind appears to be required.

In order to understand the matter in its full import, it is, of course, necessary to consider the whole question with regard to the transfer of the benefit of restrictive covenants affecting land. That question has been discussed in this Diary in the past at some length, but I think that it may be worth while to endeavour to sum up the law on the subject and see how far, in drafting assents by personal representatives, the point ought to be borne in mind and provided for by the draftsman. If I am right, the question is of some importance.

In the first place there are certain restrictive covenants which will pass by a conveyance (and therefore by an assent to the vesting) of land without any special reference to them. Such covenants are those which are said to be specifically annexed by the covenantee to certain land of his. It may be that the covenant expressly states that it is to enure for the benefit of specified land or it may be expressed to be with the covenantee and his heirs or successors in title to specified land (which amounts to the same thing) but in order that the benefit of the covenant may be enforced by the assigns of the covenantee, the covenant must be framed in some such way so as to show that it was intended by the covenantee and understood by the covenantor to be with or enure for the benefit of, not only the covenantee but the owner for the time being of the specified land. It may be added that such a covenant may be enforced by any occupier of the specified land claiming under the covenantee. (See *Rogers* v. *Hosegood* [1900] 2 Ch. 388.)

The only other covenants which so far as I know can be enforced by an assignee of land, unless expressly mentioned, are those which arise under a building scheme.

Covenants of that nature are merely implied covenants or obligations which purchasers from a common vendor are presumed to have entered into or undertaken *inter se* by reason of the circumstances in which they have respectively purchased their properties, and the covenants which they have entered into with the common vendor.

In such cases every one who owns or occupies land within the area comprised in the building scheme may enforce the covenants against every other person who is similarly situated, so that in the transfer of land within that area there is not any necessity for the covenants to be mentioned. (The leading case is *Elliston* v. *Reacher* [1908] 2 Ch. 374.)

There are, however, covenants, of a restrictive nature, which whilst enforceable as between the covenantor and the covenantee, cannot be enforced by the assigns of the covenantee against the covenantor or his assigns because the covenants have not been annexed to any specified land (*Reid* v. *Bickerstaff* [1909] 2 Ch. 305). But where a vendor has imposed a restrictive covenant upon a purchaser and retains land for the benefit of which the covenant has not been expressly, but may be presumed to have been impliedly, imposed, the covenant may be enforced by the vendor himself, and also by any assignee of the land retained who is also an express assignee of the benefit of the covenant (*Reid* v. *Bickerstaff*, ubi supra).

It seems to follow that in cases where the benefit of a restrictive covenant was not expressly annexed, at its creation, to some specific land of the vendor, it is necessary, where an assent is being made by an executor to a devise of land which the vendor retained, that there should be some words inserted which will be sufficient to carry the benefit of the covenant.

Assuming that a vendor has imposed a covenant on a purchaser, and has retained land which might benefit by it, although not expressly mentioned, the right to enforce the covenant against the covenantor or his assigns will not pass to the assignee of the land so retained, nor to his devisee of such land, without express assignment.

I have no space to deal with *Ives* v. *Brown* [1919] 2 Ch. 314, and *Northbourne* v. *Johnston* [1922] 2 Ch. 309. The decisions in those cases have been criticised and would probably not be followed in the Court of Appeal.

At the same time, as I understand the law, whether these decisions can be supported or not, there will be occasions when the right to enforce a covenant made with a vendor will pass to his personal representative, who will only be entitled to enforce it whilst he holds the land for the benefit of which it is impliedly entered into and no longer. So we get this rather curious position: (*a*) The personal representative, whilst holding the land, may enforce the covenant; (*b*) when he has assented to a devise of the land without specifically assigning the benefit of the covenant, neither he nor the devisee in whose favour he has assented can enforce the

covenant. In the latter case the benefit of the covenant is lost altogether.

The question which inevitably arises in such a case is—Is the personal representative bound to assign the benefit of the covenant to the devisee?

It is clear that there is no reason why he should not do so—but is he obliged to?

The devisee, apart from any such assignment, certainly cannot enforce the covenant. The personal representative can enforce the covenant so long, and only so long, as he holds the land devised. Can the devisee insist upon the personal representative giving him the benefit of the covenant, which, if not assigned to him when the property is vested in him, becomes nugatory, but if assigned to him at that time (and only at that time) may be of great benefit to him?

The question has not yet been determined, but I hazard the opinion that it would be held that a devisee is entitled to be put in the same position as the devisor was in with regard to the property devised, unless there be some qualifying words in the devise. A devise of land *simpliciter*, as I understand it, carries all the rights, connected with the land devised, which the devisor had, and consequently gives the devisee the right to have vested in him the benefit of covenants annexed to, or enuring for the benefit of, the land, whether specifically referred to in the devise or not.

I do not pretend to have covered the whole ground of this subject, but hope that I have said enough to put the practitioner on his guard. If I have done that, I have accomplished my object.

Landlord and Tenant Notebook.

By R. BORREGAARD, M.A., Barrister-at-Law.

Deterioration of Agricultural Holding.

When the tenancy of a farm is about to expire, the landlord will do well to consider his rights against the tenant, in view of the various demands which may be made by the latter under the Agricultural Holdings Act, 1923. For it must be remembered that that statute, though primarily concerned with protecting and enlarging the rights of the tenant, does save and confer some rights of, and on, the lessor.

As regards the general condition of the holding, agreements are still sacred. Section 10 of the Act is concerned with claims by landlords for deterioration, and expressly mentions two grounds: failure to cultivate in accordance with the rules of good husbandry, and failure to cultivate in accordance with the terms of the contract of tenancy. It also contains two provisoes, one stipulating for a notice to be given before the term expires, and the other saving the rights of the landlord as regards claims for deterioration or for dilapidations under the contract of tenancy; consequently, the exact effect of the whole sub-section was the subject-matter of much argument and speculation in *Re Arden and Rutter* [1923] 2 K.B. 865, C.A. It was generally considered that the second proviso made the second alternative mentioned above otiose, and the decision was that a landlord relying on express agreement may make his claim after the tenancy has expired.

In the absence of any express agreement, the nature and scope of the implied covenant to cultivate in a good and husbandlike manner, according to the custom of the country, will have to be considered. In *Williams* v. *Lewis* [1915] 3 K.B. 493, Bray, J., described the obligation, which was not defined by the 1908 Act, by reference to the short expressions "proper farming" and "proper condition." Now, the interpretation section of the Act (s. 57) uses, and has a good deal to say about, the expression "the rules of good husbandry," specifying a number of points to which the attention of a surveyor or other expert should be carefully drawn. For instance, not only the strictly agricultural part should be examined, but also the buildings, for the farm tenant, like any other tenant, must keep these wind and water-tight, as had already been laid down in *Wedd* v. *Porter* [1916] 2 K.B. 91, C.A. He should also take into account the character of the holding. What, however, is of greatest interest to the legal practitioner is the part of the definition which brings in, in effect the custom of the country. This factor, which does not present itself at all when there is an express agreement (one of those points which have been decided "over and over again," the last occasion being *Westacott* v. *Hahn* [1918] 1 K.B. 495, C.A.), may be of great importance when implied covenant is relied upon.

Custom must first be proved. This, as was laid down by Lord Ellenborough in *Legh* v. *Hewitt* (1803) 4 Ea. 154, means that it must be shown to be approved: the "approved habits of husbandry in the neighbourhood under circumstances of like nature" are the test. The tenant in that case was alleged to have broken the agreement by having tilled as much as half the land, and it was held that the fact that his neighbours were restrained from so doing by express covenants did not mean that there was no custom against it. But it is not necessary to define a custom with precision; in the same case it was ruled that evidence showing that some farmers tilled only one-third and others only one-fourth was not conflicting as to custom. Nor can a custom apply so as to specify what exactly must be done with every part of the land; in *Brown* v. *Crump* (1815) 1 Marsh, 567, the tenant demurred to a plea alleging promises to make fallow a specified acreage and to spend a specified amount on manure, and the landlord had to amend on payment of costs.

The notion that custom must be of antiquity has been long exploded. In *Tucker* v. *Linger* (1883) 8 A.C. 508, a custom (to sell flints turned up by the plough) was held enforceable, though it was only some thirty or forty years old.

But a custom must be reasonable. The custom in the last-mentioned case was held to be reasonable as benefiting both parties. But in *Bradburn* v. *Foley* (1878) 3 C.P.D. 129, a custom by which tenants looked to incoming tenants for compensation instead of to landlords was held not to pass this test. Lindley, J., said it might prevail in practice all over England; but a custom having such consequences "appears to us so unreasonable, uncertain and prejudicial to the interests of both landlords and tenants, as to be insupportable in point of law."

The covenant means, as was laid down in *Williams* v. *Lewis*, *supra*, that the tenant must continue proper farming to the end; and its effect may be that the land is in a better or in a worse condition than at the commencement of the term, according to what its condition was then. An implied covenant, or a badly drawn express covenant, may not prevent the tenant from annoying his landlord by his treatment of the farm in the last year; in *Rush* v. *Lucas* [1910] 1 Ch. 437, the lessor was unable to restrain his tenant from ploughing up meadow-land not covered by the covenants, though the only motive actuating the tenant was spite. The case was distinguished in *Clarke-Jervoise* v. *Scutt* [1920] 1 Ch. 382, the covenants being better drawn.

Another section which is of interest to landlords when the term is drawing to a close is s. 30. This is the "freedom of cropping" section; it prohibits contracting out and excludes custom, but it does not apply to the last year of the tenancy; and it was held in *Meggeson* v. *Groves* [1917] 1 Ch. 158, that the effect was to prohibit a tenant, whose covenants precluded him from selling hay without consent, from selling in the last year the produce of previous years which still remained on the holding.

[Note.—As to the procedure when the landlord claims, see THE SOLICITORS' JOURNAL, vol. 74, p. 607.]

THE PERMANENT COURT OF INTERNATIONAL JUSTICE.

A READING

Delivered before the Honourable Society of the Middle Temple, on 11th June, 1931,

BY

Sir CECIL HURST, G.C.M.G., K.C.B., LL.D. (Hon.), LL.M.,

Judge of the Permanent Court of International Justice; Lent Reader, 1931.

THE TREASURER, SIR ALFRED TOBIN, IN THE CHAIR.

My purpose to-night is to give you a sketch of the history, organisation, and jurisdiction of the Permanent Court of International Justice at The Hague, and of the procedure which is followed in conducting cases before it.

It is becoming a matter of some importance that the legal practitioners of this country should know something about this court and its practice. There seems to be an increasing acceptance of the view that the best way of reaching a settlement of international disputes on legal matters is to send them to the court. What is more, the court is entitled as of right to exercise jurisdiction in certain classes of disputes between this country and another state, so that on occasions Great Britain may now find herself cited before the Court by another government.

It was only in 1921 that the Court came into being, but to give you an adequate picture of it, I must go back to pre-war times. The establishment of the Court was the culmination of a movement which had been in progress for some little time, and which was brought to fruition in stages.

During the nineteenth century the submission of a dispute between two states to an arbitration tribunal could only be brought about by the negotiation and conclusion of a convention covering all the points on which agreement was necessary, the appointment of the arbitrators, their remuneration, the place where the tribunal should meet, the question or questions to be decided, the procedure to be followed, even the time limits within which the cases and the counter-cases on either side were to be deposited. If the dispute happened to be one about which public opinion was excited, negotiations of this sort were difficult and entailed delay.

It is not to be wondered at that enthusiasts, whose dream was the introduction of the reign of law into international relations, desired to see some sort of tribunal established on a permanent basis, accessible to all states on a footing of equality, always available, and possessing sufficient authority to ensure respect for its decisions.

The first practical step to that end was taken in 1899. The First Peace Conference at The Hague adopted in that year, largely under the inspiration of Lord PAUNCEFOTE, a Convention which established the Permanent Court of Arbitration. This Court was not a court in any proper sense of the term; it was merely a panel of arbitrators; each state was to nominate four men, competent and willing to act as arbitrators when required, so that when an international tribunal was to be set up, the task of finding the right men should be simplified. In addition, the Convention provided this Court with a permanent Secretariat, and with a complete code of rules as to procedure which would apply automatically, unless the parties chose to substitute something else.

This Convention marked a distinct advance; but it still left the need for an agreement between the states in dispute as to the appointment of the arbitrators.

In 1907 another forward move was tried—and failed. In that year, at the Second Peace Conference at The Hague, an attempt was made to set up a real international court, which was to exist side by side with the then existing Permanent Court of Arbitration. It was to be permanent in character, always available, possessing a settled procedure and consisting of a definite number of salaried judges, who were to meet at least once a year at The Hague and dispose of all the cases on the list. The scheme was complete in all respects, save one, and that one was vital. No agreement could be reached as to how the judges should be appointed.

At that time, as now, there were certain states in the world whose claims to rank as great powers, and to possess world-wide interests, were admitted. The Great Powers maintained that, in view of their world-wide interests, they must insist on always being represented in the Court and on always having one of their nationals among the judges. Unfortunately there is a principle of international law, equally dear to the hearts of states which do not count as Great Powers, and that is the theory of the equality of states, and the representatives of these maintained that if the Great Powers were always to have a national on the bench of the new Court, so must they. Now there were forty-four states represented at the Conference, and it was realised that a tribunal containing a representative of each of the forty-four would not work well enough to be worth having, so the whole scheme for setting up this new Court broke down.

There matters remained till the Great War.

As you will remember, there grew up during that great struggle a feeling among all the powers on the side of the Allies that from the Peace Settlement there must emerge some machinery which should protect the world from similar disasters in the future. This was the movement which ultimately took shape in the establishment of the League of Nations. The necessity for setting up an International Court of some kind was recognised by the supporters of the scheme for a League of Nations—and Art. 14 of the Covenant of the League provided that:—

> "The Council shall formulate and submit to the members of the League for adoption plans for the establishment of a Permanent Court of International Justice . . ."

The enthusiasts would have liked to see the plan elaborated in the Covenant itself, and to have seen the Court come into being the day the Peace Treaty was ratified, but the leaders in the Paris Peace Conference were mindful of the difficulty about the appointment of the judges, and of the breakdown on this point which occurred at The Hague in 1907. The task was too difficult to be attempted in the short time available in Paris in 1919.

One of the first acts of the Council of the League, when it got to work in 1920, was the appointment of a committee of lawyers to work out a scheme for the establishment of the International Court envisaged in Art. 14 of the Covenant. The British member of that committee was an honoured member of the Bench of this Society, the late Lord PHILLIMORE, and the ingenious scheme which this committee hit upon, for overcoming the difficulties as to the appointment of the judges which caused the breakdown in 1907, is usually ascribed to LORD PHILLIMORE and to his colleague, Mr. ELIHU ROOT, a former Secretary of State in the United States of America.

You will remember that the Covenant of the League of Nations provides for two bodies: the Assembly of the League

in which the whole body of members meet annually on a footing of equality, and a Council—a much smaller body—which meets more often and in which the Great Powers would be in the majority, and where their views would, therefore, predominate.

The method of harmonising the claims and interests of the Great Powers with those of the general body of states, which the committee of lawyers hit upon, was to provide for independent election of the judges of the Court by both bodies. In practice these independent elections are also simultaneous, though this is not laid down in the Statute. To be elected as a judge of the Court a candidate must get an absolute majority of votes in each body. No matter how unanimous the Council might be in support of a particular man, he would not be elected, unless he was also elected by more than half of the Assembly; similarly, practical unanimity in the Assembly would not put a man into the Court, unless he received also the necessary measure of support in the Council. The practical effect of this system was, and was intended to be, concurrence in opinion in the body where the Great Powers were supposed to predominate and also in the body where all states stand on a footing of equality. To put it shortly, the original plan was that, to be elected as a judge, a man must be elected by the Great Powers and he must be elected also by the whole body of states, great and small alike. The scheme was ingenious; it satisfied everybody; it got the world round the difficulty which blocked the way in 1907.

The election scheme was the outstanding feature in the scheme elaborated by the Committee of Lawyers in 1920. The remainder of the scheme presents no points which I need mention at the present stage. Subject to some amendments which were introduced by the Council of the League when the scheme came to them for consideration, and some further modifications by the First Assembly of the League in December, 1920, the scheme was adopted, embodied in a Statute, approved by a unanimous vote of the Assembly and brought into force by means of a protocol, signed and ratified by the great majority of the powers of the world.

The Statute of 1920 still remains in force. Some amendments, which were embodied in a revised protocol in 1929, failed of acceptance because of the opposition of one state—Cuba—but most of the intended changes have been achieved by some new rules which the Court has itself introduced under the power given to it by the Statute of framing Rules of Court.

The Statute of 1920 provided for the appointment of eleven judges and four deputy-judges; the idea being that when the Court was in session the number of judges normally composing the Court should be eleven, though nine was declared to be the quorum; if any judge was unable to sit, either on account of illness or for some other reason, or if there was a vacancy, one of the deputy-judges would be called upon to take the vacant place so as to bring the number up to eleven.

These eleven judges and four deputy-judges were to be chosen so as to ensure the representation between them of all the legal systems of the world. No two were to possess the same nationality. The Statute provides that in the event of two persons of the same nationality being elected, the election of the eldest is alone to stand good.

The period for which the judges are chosen is nine years. At the end of that time the mandates of all the members of the Court expire and a new election is held, though the outgoing men are eligible for re-election. A new election of all the judges is what took place in 1930, the first members of the Court having been elected in 1921, and their period of office having therefore expired at the end of 1930. The object underlying this system of a complete change in the membership of the Court at regular intervals is to facilitate the due representation of the different legal systems.

(To be continued.)

Our County Court Letter.

THE LIABILITIES OF PHOTOGRAPHERS.

(A) Detinue of Original Portraits.

In *Nicholls* v. *Hunt*, recently heard at Axminster County Court, the claim was for the return of two portraits (or alternatively £3 3s. their value) and for £2 general damages. The plaintiff was a stationer, and a customer had entrusted him with the two portraits in order to procure enlargements, as they had acquired a sentimental value by reason of the deaths of the sitters. The defendant admitted the receipt of the portraits (and 12s. 6d. his fees), but had neither done the work nor returned the goods, and the plaintiff alleged that he had suffered a loss of custom by the defendant's failure to execute the order. His Honour Judge The Honourable W. B. Lindley disallowed the £2 claimed under the latter head, but ordered the return (within fourteen days) of the portraits and the 12s. 6d. paid for the work, in default of which there would be judgment for £3 12s. 6d. and costs. In an ordinary case (in which the defendant himself takes the portrait) the copyright is in the sitter, but the negative is the property of the photographer—unless his services were purely gratuitous, in which event he can claim also the copyright, as in *Ellis* v. *Marshall and Son* (1895), 11 T.L.R. 522. A photographer may also be restrained from circulating photographs of groups of persons and of buildings in circumstances such as those in *Stackemann* v. *Paton* (1906), 50 Sol. J. 390. Both these cases must now be viewed in relation to the Copyright Act, 1911, s. 5 (1), the effect of which was considered in *Sasha Limited* v. *Stoenesco* (1929), 45 T.L.R. 350.

(B) Rent of Beach Sites.

In *Lowestoft Corporation* v. *Barker*, at Lowestoft County Court, the claim was for £100, being two years' rent of two photographic pitches, and the counter-claim was for £229 for loss of profits owing to nuisance. The defendant's case was that (1) the corporation had stacked a row of concrete slabs as a breakwater, and the secluded space between this and the promenade had been used as a children's latrine; (2) the drainage from the esplanade to the beach was defective; (3) the approaches to his pitches had therefore been spoiled. The case for the corporation was that (1) the breakwater had been rendered necessary by erosion; (2) the esplanade drainage had been satisfactory for fifty years; (3) there was no pollution of the sand. His Honour Judge Herbert Smith pointed out that the defendant's remedy (if any) was under the Public Health Acts, as the corporation were not responsible for the children. The erosion was an Act of God, which created no liability to re-model the drainage, and the corporation (as landowners) were entitled to empty the waste water on to their own land. In the absence of any public or private nuisance, judgment was therefore given for the plaintiffs on the claim and counter-claim, with costs. It transpired that the letting was on condition (*inter alia*) that the hirer should keep the premises in good and cleanly condition, and the defendant contended that this only referred to the actual sites of the huts. It was held, however, that the clause had a wider interpretation, the result being that the greater the nuisance the greater the breach of contract by the hirer.

ADVERSE POSSESSION AGAINST HEIR-AT-LAW.

The abolition of heirs-at-law has not affected rights which accrued before 1926, as shown by the recent case of *Reynolds* v. *Reynolds* at Walsall County Court. The plaintiff claimed possession of half an acre of land (the annual value being £30), his case being that (*a*) his father had died intestate in May, 1915, and he himself (as the eldest son) was entitled to the freeholds, subject to the rights of his mother; (*b*) the latter had lived rent free in the adjoining house until her death in May, 1930; (*c*) the defendant (the youngest son) had given up work as a miner on the death of his father, and, having

gone to live with his mother, had erected an Army hut on the land (in 1921) for carrying on a garage business; (*d*) the defendant had never had exclusive possession, however, and the plaintiff had always paid the tithes. The defendant contended that (1) after the father's funeral, he was told by the plaintiff that he could have the land as his share; (2) although the gift had not been completed by conveyance, he had nevertheless cultivated the land since 1916 and had erected the hut in 1919. His Honour Judge Tebbs held that the plaintiff had succeeded to the land, but the question was whether there had been actual ownership for twelve years, whereby the defendant had obtained a possessory title. This defence failed, however, and judgment was therefore given for the plaintiff, who undertook to allow two months for the removal of the garage.

Correspondence.

"Summary Justice."

Sir,—I have read with interest the contributions to the controversy as to the respective merits of professional and lay benches, with the discussion of the various side issues raised. Most of your contributors and correspondents seem to me to indulge too freely in general assertions such as: "The only hope is to banish the amateur altogether and select trained professional men for the job"; "The clerk who knows his business (and I have yet to encounter one who does not) is ever alert," etc. "The suggestion that all clerks to justices should be debarred from private practice is impracticable."

My own experience of life is that every human institution and device has both advantages and disadvantages. The real problem is to get the maximum of the former and the minimum of the latter, perfection being unattainable. Often a combination of useful elements is the best method.

The English race, whose ways, for good and ill, have been on the lines of "hit and miss," has, in social and political matters, frequently got near the centre of the target. The jury system, in spite of its defects, is one outstanding instance. Its success is due, I believe, to the combining of the lay and professional elements in the administration of justice.

The jury is dying. For every person tried for an indictable offence by a jury, six or eight are tried by courts of summary jurisdiction, and this besides the hundreds of thousands of persons tried for summary offences, many of them serious and carrying heavy punishment. What we have to seek, I think, is some mechanism which will have the same elements as the jury.

A lay bench left to its own guidance tends to misunderstand and misapply the law. A professional magistrate, left alone, tends to develop a dangerous belief in his own omniscience and wisdom. But there are laymen who understand the principles of evidence and can follow a legal argument, and there are magistrates who keep the open heart and mind in spite of seeing "the usual man in the usual place" for years on end.

Incidentally the "amateur magistrate" of your first article can be matched with two professionals, one of whom did not know that a child under seven was *doli incapax*, and another who took a plea in a case of false pretences by asking the accused, "Do you admit this debt?" Lay magistrates are still appointed for odd and inadequate reasons, but so are professionals, though we will not enlarge on this.

A lay bench, with justices appointed from many sections of society, is in better touch with the lower ranks of men, who supply the greater number of those having recourse to police courts, than many of the professionals, who develop a superiority complex in a public school and have a distressing ignorance of the conditions of life of the poor and humble. On the other hand the very detachment of the professional is an asset. He is unswayed by local considerations and often exercises a healthy influence by bringing into prominence a very definite and fairly high code of honour and morality.

It would be possible to go on balancing advantages and disadvantages for column after column. Meanwhile the thing is gradually settling itself. The courts of summary jurisdiction are absorbing more and more of the business of the criminal law. Their defects are becoming more apparent. Presently, an adequate system of appeal, free and effective as that to the Court of Criminal Appeal, is bound to come, and a bright light will shine in many dark places. What will possibly be the courts of the future already exist in germ: lay justices for the jury element, a learned clerk for the legal. The "jury" needs to be limited in number, and the lawyer's office to be magnified. The latter should be entitled to give to the former binding directions on the law.

But some of your correspondents are altogether too complacent as to the capacity of all solicitor clerks to justices to do their work well. Many of them do; others are ignorant even of elementary rules of procedure. The whole time clerk throughout the country is a possibility. Those who get a "paltry" salary do little for it. A combination of offices would provide an adequate salary for a good whole-time man, who would sit at several courts, arranged for a succession of days.

As most of your correspondents mention the experience and qualifications upon which they base their remarks, may I say that I have been very frequently before metropolitan magistrates over a period of thirty years, that I have corresponded, directly and indirectly, with a very considerable number of clerks to lay justices upon professional matters, and that I have read probably every book that has been written dealing with the work of the police courts in England, and many of those whose subject is similar work in America and other foreign countries. Whether my views are sound or unsound they are based on wide knowledge and long experience. Last, but not least, I have been an

OCCASIONAL CONTRIBUTOR TO THE SOLICITORS' JOURNAL.

28th June.

P.S.—The correspondent whose letter appears in your issue of the 27th instant is a little less than just to the clerks of the Metropolitan Police Courts. I have frequently seen and heard them consulted on points of law by their magistrates, and know that, behind the scenes, they often give unofficial assistance to solicitors and counsel whose knowledge of and experience in criminal law and procedure is usually necessarily less than their own. It is interesting too that the Justices Clerks Act, 1877, reckons seven years' service as a clerk to a Metropolitan Police Court as equal to fourteen years' service at the Bar. The City of London, wiser in this than some other municipalities, has frequently taken advantage of s. 7 of the Act cited to appoint a Metropolitan Police Court clerk as clerk to its own lay bench.

Sir,—As the writer of the letter signed "A Clerk to Justices" in your issue of the 27th ultimo, I wish to reply to a few of the remarks in the letters in your issue of the 4th inst. I think that when one has a strong case it is unwise to overstate it, even if "G.W.H." should afterwards describe my contentions as modest. I do not agree that courts of lay magistrates performing their work efficiently and well are exceptional.

In the letter signed "A Barrister" the writer admits that some barristers, by lack of experience or training, are "just as unfit to become a professional magistrate as the inexperienced and untrained layman." Unfortunately barristers with little experience of magisterial work have been appointed as stipendiary magistrates in the past. It should not be overlooked that in the provinces the local authority who pays the salary has no voice in the selection. I do not know what the writer means by a trained layman, but if "A Barrister" should be appointed a lay magistrate, I advise him to follow the example of a celebrated ex-Lord Chancellor who has

stated that he knows no law when sitting on his local bench. Nothing causes so much dissatisfaction to litigants in petty sessional courts as the weak compromises by lawyer magistrates who advise themselves without reference to the clerk and are embarrassed by their incomplete knowledge of magisterial law.

Up to the decision, a magistrate should be in the nature of a juryman. After the decision, he is, of course, something more. It then becomes the clerk's duty to advise him as to the scope of his powers, and the magistrate alone is responsible for the sentence. Even as to that, the magistrate would be discreet to confer with the clerk, who is always in attendance. The knowledge of the clerk as to the course adopted by the magistrate's colleagues in similar cases previously is helpful in arriving at some standardisation of sentence.

"A Barrister" also writes that the question of the expense of appointing a large number of additional stipendiary magistrates is surely beside the point. I venture to think that most of your readers will agree with Mr. J. A. Howard-Watson that the suggestion is far too expensive and utterly outside the region of practical politics.

London suffers from a name. Fielding was a police magistrate in London both on fact and in name. He controlled the police, was the prosecutor, and received as his remuneration the fines he himself imposed, provided that he could collect them. In the London area, the names "Police Magistrate" and "Police Courts" have been perpetrated—perhaps I mean perpetuated—by Act of Parliament. Unfortunately the press and some of our judges have erroneously used the words "Police Court" to describe petty sessional courts in the provinces. The name conveys to a large section of the public, contrary to the facts, the impression that there is a close connexion between the police and the bench, that the police are under the control of the magistrates, or that the magistrates are subject to influence by the police authorities. Doubtless it was owing to this misnomer that Mr. Justice Roche fell into the error of describing the atmosphere of petty sessional courts as one of "triviality." The local authority, not the police, are now the most important litigants in all large provincial petty sessional courts.

6th July. A Clerk to Justices.

Costs of Litigation.

Sir,—I was very interested to read Mr. Vaughan's letter in your last issue, as I had ventured to refer to the same question at the annual meeting of The Law Society last Friday. I was very glad to elicit from the President an assurance that the matter was receiving the prompt and close attention of the Council. There is no doubt that the high costs of litigation are agitating the minds of the public, particularly of the business world, to a remarkable degree, as was disclosed by the remarks of the Lord Mayor at the Banquet to His Majesty's Judges at Grocers' Hall last Friday evening. It is very satisfactory to note that the Lord Chancellor in his reply to the toast of his health stated that he was giving the matter prompt and careful attention with a view of seeing how far the suggestion made in the memorandum of the London Chamber of Commerce, the Bar Council and Law Society could be carried into practical effect. It is to be hoped that effective action will not be long delayed.

Your correspondent points out many ways in which procedure could be simplified and cheapened. What the public, particularly the business man, wants is a speedy and inexpensive method of settling their disputes and difficulties, and it is up to the legal profession as a whole to provide it. Reform in this matter should come from within not without the profession, and it is to be hoped that our own Law Society will appreciate this and take an active and not a passive part in working out a solution satisfactory to all concerned.

Bedford-row, W.C.1. Herbert S. Syrett.
13th July.

Re Mortgages of Reversions.

Sir,—If the mortgagee has to bear a rateable portion of the duty in regard to the mortgage debt, what an incentive to reversioners to mortgage to the full their reversions! By so doing they not only get from the mortgagee the cash loaned, but are able to shift to his shoulders a proportion of the duty the reversioner would otherwise have to bear. The mortgage loan becomes taxed and not the fund out of which it is payable in such a case.

17th June. Puzzled.

Mortgages of Reversionary Interests. Incidence of Estate Duty.

Sir,—One hesitates to cross swords with so doughty an opponent as the writer of "A Conveyancer's Diary," but it is difficult to think that the construction he puts upon s. 14 (1) of the F.A., 1894, is correct. If it be, one would get the following Gilbertian position:—

> A man entitled to say a fund of £50,000 subject to the life interest of A, hears that A is not likely to live long, and having read your contributor's opinion, he immediately borrows as large a sum as he can upon his reversionary interest, and assigns that reversionary interest to the mortgagee. A dies soon after, and the mortgagor approaches the trustees, and represents he does not wish any of the investments interfered with, and proposes that he (the mortgagor), as one of the persons accountable for the estate duty under s. 8 (4) of the F.A., 1894, should pay the estate duty and does so. Having paid the estate duty, he then, being a person authorised to pay the estate duty in respect of the property, seeks to recover from the mortgagee, as the person entitled at the date of the death to a sum charged on such property, a rateable part of the estate duty!

I imagine that if ever the matter came before the court, the court would have no difficulty in finding that the sum payable under a covenant to repay an amount lent, coupled with an assignment of the property to secure that repayment, was not a sum charged on the property within the meaning of s. 14 (1).

London, E.C.4 W. H. Walmsley.
8th July.

Sweepstakes.

Sir,—On p. 430 you quote Mr. Clyne's apologia as to his department's action in respect of the Irish Hospital Sweepstakes. In it he states "I have to administer the law, whether I approve of it or not." Granted this devotion to duty, one would like to know why he does not administer 10 & 11 William III, c. 17, in respect of club and other private sweepstakes, which are, beyond question, private lotteries within that Act, and so forbidden by it.

London. A.F.
1st July.

International Law Association.

Sir,—Would you kindly inform your readers that the next Conference of this Association will be held in Budapest in the summer vacation of 1932, the London Conference intended to be held in the present year having been cancelled.

Wyndham A. Bewes,
Hon. Sec.

2, King's Bench Walk,
Temple, E.C.4.
25th June.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to The Assistant Editor, 29, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Auctioneers' Commission.

Q. 2242. An offer was received from a client for a house. This offer, however, was not accepted. An auctioneer was instructed to sell by public auction. At the sale the same client bid but not up to the reserve. The reserve was fixed after the auctioneer was instructed, and no special terms were arranged with the auctioneer. At the auction the property was withdrawn. Five months, more or less, later, the property was sold privately to the same client at a price considerably below the reserve and near or less than the amount bid by the same client at the auction. After the withdrawal the auctioneer charged a sum as for "one-quarter commission as property withdrawn. Full fee to be paid when property sold." No reply was sent to this. The auctioneer now claims the balance of commission on the amount realised at the subsequent private sale. Morally his claim seems to be just, but one of the trustees objects to pay commission on the general ground that there was no disposal at the auction.

A. The facts show that there was no withdrawal of the auctioneer's retainer or cancellation of the instructions given to him. The claim of the auctioneer to be paid a full fee, when property sold, has never been repudiated, and, by selling to the original applicant, the vendors have deprived the auctioneer of the opportunity of earning his commission. He can therefore claim damages for breach of contract, and the amount recoverable will be same as his commission would have been. The only doubt is therefore as to the auctioneer's cause of action, and not as to the amount to which he is entitled, and the court can give judgment for the amount due by amending the claim accordingly.

Land Settled by Will—Will not Proved till after Death of Tenant for Life—Title.

Q. 2243. A purchased certain freehold property called Blackacre in 1881. By his will in 1908 he appointed Y and Z executors, and after directing payment of funeral expenses and the like, gave the property in question to his wife M for her life, and directed that after his death the property should be sold and the proceeds divided equally between all his children. A died in 1911. A's wife died in 1929. We are acting for certain purchasers who have entered into a contract to buy Blackacre from A's executors, who, we find on receiving the abstract, did not prove his will until 1930. The vendors state that as executors of the will of the original testator A they have power to sell and convey the property. Is it not a fact that the property vested in A's widow M under the S.L.A. as tenant for life, and that on her death her general personal representatives are the proper persons to sell and convey? We may say that actually we understand that no representation has ever been taken out to her estate.

A. The legal estate vested in Y and Z on A's death, subject to any disclaimer, but in view of the fact that they did not prove the will till after M's death it cannot, it is considered, be assumed that they had assented to the devise to M. Consequently the opinion is given that the legal estate is in them as executors. If they have no reason to sell for the purpose of administration, it appears to be their duty to assent to the vesting in themselves as trustees for the purpose of the S.L.A., 1925 (see s. 30 (3)) on the statutory trusts (see s. 36 (1) and *Re Cugny's Trusts* [1931] 1 Ch. 305). As, however, they are the trustees as well as executors, it is considered to be a matter of indifference that this latter course is not adopted, and the opinion is given that the purchaser may safely take a conveyance from them as executors.

Conveyance of Freeholds and Long Leaseholds as Freehold.

Q. 2244. In June, 1922, A purchased a small piece of land, as to such parts or shares thereof as were of freehold tenure in fee simple, and as to such parts or shares as were leasehold tenure, for the residue of a term of 1,000 years. Certain undivided shares or parts were freehold tenure and certain undivided shares or parts were long leasehold without rent. A mortgaged the property to B in December, 1925, and was adjudged bankrupt in February, 1926, C becoming the trustee. B and C sold the property in September, 1926, to D, ignoring the question of the undivided parts or shares and conveying in fee simple. Subsequently C attained his release as trustee of A, the bankrupt, and subsequently died. D subsequently sold to E and E is now selling to F and F raises the question as to the position of the undivided shares which are or were leasehold.

(1) Does the conveyance from B and C to D purporting to convey in fee simple pass the whole interest which in fact the bankrupt originally had, so that an enlargement deed by the present vendor would rectify the position?

(2) If not, in whom is now the fee simple estate?

A. To pass a leasehold interest no habendum or particular technical words were ever necessary, provided there is a deed from which can be gathered an intention that the legal estate should pass (see *Re Beachy* [1904] 1 Ch. 67). The conveyance in question clearly passed the long leasehold interest and this can now be enlarged into a fee simple if the requisite conditions of an enlargeable term are present.

Intestacy—Renunciation by all interested save one in favour of that one—Procedure—Stamp.

Q. 2245. A and B, spinsters, were sisters. They purchased their house in 1902 as tenants in common. A has now died intestate and her estate consisting of the half share in the house and a few small investments and cash passes one-fourth to B, one-fourth to a surviving brother and the remaining two-fourths to nephews and nieces, children of two deceased brothers. The surviving brother and nephews and nieces are anxious to release their shares in the estate in favour of B. (1) It is assumed that so far as the investments, which now stand in B's name as sole administratrix, and the cash are concerned no formal release is necessary, and that it will be sufficient if the brother and nephews and nieces, several of whom are abroad, write B a letter giving up their shares. (2) The house now stands in B's name as surviving trustee for sale. (*a*) Should B as administratrix assign A's equitable interest to herself, and if so, how should the consideration be stated, or (*b*) should B and the brother and nephews and nieces as beneficiaries assign their shares to B (see "Encyclopædia of Forms and Precedents," Supplement No. 4, pp. 671 to 673), or (*c*) should B appoint another trustee to act with herself, the brother and nephews and nieces giving up their shares in the proceeds of sale in favour of B by letter. If (*a*) or (*b*) are adopted the assignment will presumably have to be stamped on the value of three-fourths of A's half-share in the house.

A. (1) We do not favour this proposal which is of a very informal nature. Trouble might arise if one of the donors

were to change his or her mind in the future. See post. (2) We think that a deed of family arrangement is indicated whereby the surviving brother and the nephews and nieces in consideration of (say) natural love and affection assign to B all their interests in the intestacy. In and by the same deed B would convey the legal estate in the house to herself as absolutely entitled in equity free from the statutory trusts. The stamp duty will be on three-quarters of the net value of the estate plus 10s. in respect of the assurance of the legal estate in the house. The duty should, and indeed must, be adjudicated (Finance (1909-10) Act, 1910, s. 74). Provision should be made for the payment of all death duties on the death of A and for the payment of her debts and funeral and testamentary expenses.

Horse Training Ground as Agricultural Holding.

Q. 2246. A leases to B for a term of five years a large private dwelling-house, extensive stabling (more than required for a farm) and about 72 acres of land, mostly grazing, but some arable. This has been used for many years as a horse-training establishment, and the present tenant is a large trainer, and uses part of the land for gallops, and the rest for the purposes of his establishment and not as a farm, in other words it is a business. There is no option to renew in the lease, and no reference is made to the purposes for which it is used. This lease expires on 30th September next, and questions arise as to whether it is an agricultural holding, and s. 23 applies as to notice to quit being required. Section 33 states that the provisions of the Act *as to compensation for improvements and disturbance* (only ?) shall apply to the land exclusive of non-statutory land, but if this is construed literally, it does not convert it into a holding, and therefore s. 23 would not apply. Section 23 and s. 33 differ in that one can be contracted out of, the other can't. We assume (1) That the case of *In re Lancaster & Macnamara* [1918] 2 K.B. 472 still applies, and that this land is still not a *holding*; (2) that therefore, on the expiration of the lease, the tenancy automatically comes to an end without notice to quit; (3) that no notice to quit having been served by the landlord no question of compensation for disturbance can arise. There is no clause in the lease contracting out of s. 33.

A. The statement that the present tenant uses "the rest for the purposes of his establishment and not as a farm" is apparently an assumption of that which the lessor will be required to prove, especially in view of the admission that some of the land is arable. Prima facie, therefore, the 72 acres constitute an agricultural holding, and the only non-statutory land is that covered by the dwelling-house and extensive stabling. The Agricultural Holdings Act, 1923, contains no definition of an "agricultural" holding, but the Agricultural Rates Act, 1896, provides that "agricultural land" does not include any land kept or preserved mainly or exclusively for purposes of sport or recreation or land used as a racecourse. The lessee himself does not keep the land for any of the latter purposes (whatever may be the ultimate object with which the horses are trained) and the fact that he uses part of the land for gallops does not render it useless for grazing, so that most of the land is still pastoral. The question does not state whether the lessee also breeds the horses he trains, but, if he does so, the premises are a stock farm, and therefore within the Act. Even if the animals are only brought to the premises for training, the opinion is given that *In re Lancaster & Macnamara* does not apply, and that the land is a holding within the Act. All the questions are therefore answered in the negative, but compensation can only be claimed for improvements and disturbance, but not for fixtures under s. 22, nor will the lessee have any rights under s. 25 with regard to notice to quit. The matter will therefore be governed by s. 23. The statement is noted that no reference is made in the lease to the purpose for which the land is used, and the absence of any farming covenants may be used as the basis of an argument that the parties did not contemplate that the premises would be within the Agricultural Holdings Act. The intention of the parties, however, cannot override the facts as to user, and (although this is a border-line case) the onus of showing that the land is outside the Act does not appear to be discharged by the lessor.

Deed of Arrangement—Fraud—Setting Deed aside.

Q. 2247. A called a meeting of his creditors to explain his financial embarrassment and that he could not pay his creditors in full. A's solicitor was present and explained the situation, but did not disclose that some few days previous to the meeting he, the solicitor, with full knowledge of A's financial position, paid into A's banking account certain moneys after deducting therefrom all costs that were owing to him, the solicitor, to date. A had not authorised the solicitor to make any deduction of his costs in this manner. It is contended that by so doing the solicitor fraudulently preferred himself to the other creditors. At the meeting it was resolved that the debtor should enter into a deed of arrangement, and B was appointed trustee of the deed. The deed was duly registered, and B served on all the creditors the necessary notice and the time has now gone by in which to present a petition in Bankruptcy. Can the creditors claim to have the deed of arrangement set aside on the ground of fraudulent preference or otherwise by reason of the non-disclosure at the creditors' meeting of the action of A's solicitor in preferring himself to the other creditors? Furthermore, is a trustee under a deed of arrangement obliged to investigate transactions prior to the date of his appointment? Should B, who had knowledge of the transaction, have investigated the circumstances under which A's solicitor deducted his costs and claimed to have the payment set aside?

A. We do not think that the conduct of the solicitor was satisfactory, but we doubt whether it was fraudulent in any way. Even if it was fraudulent, the fraud was not a factor inducing the creditors to enter into the arrangement, for they, presumably, agreed to the scheme on a consideration of the finances of the debtor less the amount retained by the solicitor. We therefore express the opinion that the deed will not now be set aside on this or any other ground revealed in the question. We doubt whether there is any duty on the trustee to investigate matters prior to his appointment or to move in the matter in any way.

Lease subject to Sub-tenancies—Right to Distrain for Arrears of Rent—Or to Proceed for Forfeiture.

Q. 2248. Clients of ours have recently taken a lease of property subject to but with the benefit of certain sub-tenancies. In two cases the sub-tenants are in arrear with rent, and the lessor has by writing expressly assigned the arrears to our clients. Notice of the assignment has been given to the sub-tenants concerned. Will you please advise:—

(1) Whether the lessees can proceed by distress or otherwise to recover the arrears.

(2) Whether, relying on the arrears of rent referred to, the lessees can take proceedings to recover possession.

(3) One of the tenancies is subject to the Rent Acts. Does this affect the position?

A. (1) No, the lessee as assignee of the reversion cannot distrain for arrears. The principles of *Flight* v. *Bentley* (1835), 7 Sim. 149, and *Staveley* v. *Allcock* (1851), 16 Q.B. 636, apply notwithstanding the separate assignment of the rent.

(2) This is doubtful. If the case of *Davenport* v. *Smith* [1921] 2 Ch. 270, is good law, the lease may, in effect, operate as a waiver. It was referred to, but not expressly disapproved of, in *Atkin* v. *Rose* [1923] 1 Ch. 522.

(3) It is considered it should not legally do so, but a county court judge in exercising his discretion would probably take the fact into consideration.

Reviews.

International Government. By EDMUND C. MOWER, Professor of Political Science, University of Vermont. Boston, New York and London: D. C. Heath & Co. 12s. 6d.

This book justifies the claim made on the publishers' wrapper, that it is "an informative, up-to-date general survey of governmental relations, showing how far international government has progressed, what are its origins, and why it must steadily expand both in function and mechanism." One can truthfully add that it is a book which was wanted, but that it will need frequent new editions if it is to maintain its usefulness. We hope its sales will make this possible.

Mr. Mower has the mind which can see machinery in movement, and cannot be content with mere description of the interlocking parts. Government he envisages "as a process rather than a mechanism." He sees, too, that "the elements of a true system of international government do in fact exist . . . Contacts between states are now continuous, vital, infinitely varied."

But if the "idea of a world state as a community of free states in coöperation" is to be carried into full effect, we shall not have to rest content with the abolition of war in the military sense (we are far indeed from even that), but we shall have to find some check on the economic war which is always raging; it, too, is "continuous, vital and infinitely varied." Perhaps the President's proposal for the suspension of war debt and reparation payments for a year is the first flag of truce in that war.

What we want is the cultivation of the international mind; not the cosmopolitan mind, which can be the possession of the worst financial barons of modern times. The international mind seeks a reconciling of the interests of all nations and states, and an understanding of their interlinked problems, not a confounding of boundaries or a standardisation of human beings. Two strong powers in the world are slowly drawing all the others into alignment on one side or the other: the United States, with its capitalistic structure organised and directed by strong-minded captains of finance and industry, and Russia, mercilessly organising a proletariat into an instrument for destroying the existing world balance. Both proceed by the use of economic forces; both consciously and unconsciously seek to mould men into a dreadful likeness to one another. It remains to be seen which of them, if either, will dominate the world organisation we are laboriously seeking to create, or whether their utter incompatibility and unappeasable antagonism the one to the other will not fracture the whole thing into small pieces, as the Roman world once fell apart into the fragments which became the nations of Western Europe.

Meanwhile, all men had better inform themsleves on what is happening internationally; to an important part of this no better guide than Mr. Mower will be found.

Tulane Law Review. Vol. V. No. 4. Pan-American Number. New Orleans: Tulane University College of Law. $1.

This is an excellent special number, containing a number of useful articles and notes. To the English reader the article by Señor De Bustamante, upon "The American Systems on the Conflict of Laws and their Reconciliation" is the most interesting.

The conflict of laws is a subject whose importance grows as the world shrinks. Every year it becomes more necessary that simple and, so far as possible, standard rules should be elaborated. The Americas, North and South, have gone further in this direction than the rest of the world. "A systematic picture of the solution attained in the practical realm by the arrangements applied by the Republics of America would surprise us more on account of the number and character of the similar solutions than by reason of the character and number of their difference." This picture Señor De Bustamante proceeds to supply.

The other articles in the review are good reading, but principally of interest to trans-Atlantic readers, so we make no comment on them.

The Building Societies' Year Book, 1931. Official Handbook of the National Association of Building Societies. Compiled and edited by GEORGE E. FRANEY, O.B.E. Large Crown 8vo. pp. 442. London: Reed & Co., 37, Cursitor-street, E.C.4. 7s. 6d. net.

The fact that almost alone among the institutions of this country, and, indeed, of the world, building societies as a whole passed through the financial storms of 1930 unshaken and unperturbed, makes "The Building Societies' Year Book for 1931" of particular public interest.

The Editor states in his Preface that the buoyancy of building societies, contrasted with the depression that has affected industry and finance, affords one of the most striking features of the national situation. The statistics given indicate that the rate of progress attained in recent years, for a time considered phenomenal, has continued without any perceptible check, and there is no indication that the peak is yet within sight. Standards of comfort advance so surely, and the instinct of personal ownership has become so insistent among all classes, that there is evidently much vital work for building societies to do. In the financial market the standing of one thrift agency only which maintains in safety a total of nearly £400,000,000 of the savings of more than 1¾ millions of the people cannot be gainsaid. An additional three-quarters of a million of people are buying their houses, on equitable and easy terms, through the agency of building societies, advances on mortgage for this purpose exceeding £1,700,000 per week during the past year, the total amount advanced being nearly £89,000,000.

The Minister of Health (The Rt. Hon. Arthur Greenwood, M.P.), in the course of a Foreword, voices his grateful appreciation of the valuable contribution building societies have made towards the solution of the country's post-war housing problems. Good health, he emphasises, is intimately connected with good housing conditions, and it would be misleading to suggest that anything like sufficient accommodation has yet been provided for the lowest paid workers. Until this is remedied, no one can say that the need for houses has been met. Private enterprise can only build houses so long as a market for them is available, and it is not overstating the case to say that the market for small houses built for sale has been created by, and depends for its continuance upon, the assistance available to purchasers from building societies.

The Year Book is the standard work of reference on building societies, and an alphabetical and geographical list of these societies, the principal figures in their last balance sheets, and the names of the directors and managers, are published in the book, together with a mass of useful information indispensable to all interested in this remarkable social and industrial movement.

A feature of the book is the section containing a series of articles written by experts, including Mr. Hartley Withers, the well-known economist, who, in his article on "Is Saving a Mistake?" controverts the argument in the celebrated broadcast address by Mr. J. M. Keynes last January on the subject of the problem of unemployment, that anyone who saves 5s. puts a man out of work for a day. Other contributors include Sir James B. Baillie (Vice-Chancellor of Leeds University), who deals with the Human Factor in Business, and Sir John Stewart Wallace (Chief Land Registrar), who writes on Land Registration. The President of the Association, Viscount Cecil of Chelwood, in the course of his speech at the Annual Conference held at Edinburgh recently, deals with the suggested taxation of land values, emphasising that as building societies represent some millions of the population they have a right to be heard on the subject and to insist that nothing should be done to increase the cost of building houses, particularly for the working classes. H.

Books Received.

North Carolina Law Review. Vol. IX. No. 4. June, 1931. University of North Carolina Press. 80 cents.

Ready Reference List of the Precedents, Forms, and Articles in Nos. 1 *to* 16 *of The Conveyancer.* 1931. London : Sweet and Maxwell, Ltd.

Willis's Workmen's Compensation Acts, 1925 to 1930. With Notes, Rules, Orders and Regulations. By W. ADDINGTON WILLIS, C.B.E., LL.B., Barrister-at-Law, Deputy Crown Umpire of Unemployment Insurance. 27th Edition. 1931. Crown 8vo. pp. cxxii, 796 and (Index) 87. London : Butterworth & Co. (Publishers), Ltd. ; Shaw & Sons, Ltd. 15s. net.

Butterworth's Workmen's Compensation Cases. Vol. XXIII (N.S.). Edited by His Honour Judge RUEGG, K.C., EDGAR DALE, Barrister-at-Law, and J. ALUN PUGH. Scottish Case by MARCUS DODS. 1931. Demy 8vo. pp. xviii, 667 and (Index) 21. London : Butterworth & Co. (Publishers), Ltd. 27s. 6d. net.

Nullity of Marriage. F. J. SHEED. 1931. Crown 8vo. pp. x and 73. London : Sheed & Ward. 2s. 6d. net.

Law and Civic Life. The Presidential Address of The Right Hon. Lord ATKIN, LL.D., to the Holdsworth Club of the Students of the Faculty of Law, in the University of Birmingham, delivered at the University, on 9th May, 1931. Published by the Holdsworth Club.

The Law Quarterly Review. Vol. XLVII. No. 187. July, 1931. London : Stevens & Sons, Limited. 6s. net.

Law and Language. The Presidential Address of The Right Hon. Lord MACMILLAN, LL.D., to the Holdsworth Club of the Students of the Faculty of Law, in the University of Birmingham, delivered at the University, on 15th May, 1931. Published by the Holdsworth Club.

A Treatise on the Law of Master and Servant. CHARLES MANLEY SMITH, Barrister-at-Law. Eighth Edition by C. M. KNOWLES, LL.B., Barrister-at-Law. 1931. Medium 8vo. pp. lxviii and (with Index) 392. London : Sweet and Maxwell, Ltd. 25s. net.

The Road Traffic Act, 1930. The Complete Text of the Act and of the Regulations issued by the Minister of Transport, with the "Highway Code." With an Introduction, Notes, Table of Cases, and Statutes, and a detailed Index. Edited by F. LLEWELLYN-JONES, B.A., LL.B., M.P., Solicitor. 1931. Large crown 8vo. pp. xv and (with Index) 409. London : Sweet & Maxwell, Ltd. 21s. net.

Stoolball and How to Play It. Illustrated. By W. W. GRANTHAM, K.C., L.C.C., Recorder, Founder of the Stoolball Association of Great Britain. 2nd Edition. 1931. London : W. B. Tattersall, Ltd. 1s. 6d. net.

Incorporated Society of Auctioneers. List of Members, 1931. Published by the Society at 26, Finsbury-square, E.C.2. 2s. 6d., post free.

In Lighter Vein.

THE WEEK'S ANNIVERSARY.

Anthony Astley Cooper, afterwards Earl of Shaftesbury, was born on the 22nd July, 1621. Although he entered Lincoln's Inn at an early age, he paid no attention to law until he became Lord Chancellor in 1672. By that time, he had earned the dual reputation of a very gallant soldier and a most unscrupulous politician. He was completely out of tune with the spirit of the legal world and there was probably some malice as well as vanity in his decision to ban coaches in the official procession of the judges to Westminster, restoring the ancient custom of a horseback progress. As a former cavalry officer, the new Chancellor had a tremendous advantage over his venerable brethren, and Twisden, J., was actually thrown. Shaftesbury went to court determined to show the lawyers that "a man of sense was above all their forms." It is doubtful whether he succeeded in any measure, but, if poets can be trusted, he did. Dryden described him as :

"Swift of dispatch and easy of access,"

while another bard sang how,

". . . his choice sagacity
Straight solved the knot that subtle lawyers tied."

A very different account seems to show that he began by tying himself in knots, making absurd orders in defiance of the Bar and afterwards finding himself helpless before the resulting complications. There is some evidence for both pictures of him.

WIGS DISPENSED.

Recently, when our summer temperature so far forgot itself as to rise to 71 degrees, Langton, J., discarded his wig and accorded counsel a similar dispensation, nor did the case in progress go a whit the worse for the change. Nevertheless, it will probably be many a year before litigation is divorced from horsehair. Ceremonial trappings, whether in the shape of mitres or bear skins, academic hoods, mayoral chains or masonic aprons, answer a universal instinct. Thus, the harmless, necessary wig has survived over a century of criticism. As early as 1819 at the Lancaster Summer Assizes, Mr. Scarlett, afterwards Lord Abinger, C.B., led a revolt by appearing in court without robes and expressing the hope that "these mummeries" would soon be abandoned. Next day, indeed, the Bar followed his example, but only for a day.

A CONVIVIAL SEASON.

By a curious coincidence it happened recently that a festive or convivial touch pervaded the items of legal news. Judge Murphin of Detroit described how his interest in wine had necessarily "become somewhat of a vague and spiritual order." In a case before Hawke, J., the price of cocktail shakers was material, and counsel offered to tell his lordship the best place to get them. Again, Bateson, J., had occasion to ask a witness, "What is wine colour ?" The explanation being that port wine was meant, there was no need for a member of an Inn of Court to ask "What is port wine ?" Mounting to higher spheres, one gossip writer espied Lord Macmillan enjoying a cabaret show, whilst another was informed and verily believed that, had his health not failed him, that indomitable veteran, Lord Darling, had meant to attend a cocktail party. Only the Recorder of Dover, when the Mayor of that impeccable town presented him at the Quarter Sessions with his third pair of white gloves, confessed that his dancing days were over, and the gift was thus of no practical use.

ON PARLE FRANÇAIS.

"Parlez ! Do not nod your head," cried Eve, J., recently to a French witness who was replying to questions by signs only instead of words. The opposite fault was apparent in a French lady who earlier in the term was defendant in a curious case before Maugham, J. Her husband, the plaintiff, though an Englishman, had lived so long in France that he now spoke his native tongue with some difficulty. Nevertheless, he conducted his case in person and cross-examined his wife, being a little disappointed at having to do so in English. The lady answered every question with a voluble speech. At last Maugham, J., attempted to check her eloquence, but, between an imperfect knowledge of our language and a slight defect of hearing, she failed to understand his admonition. At last, her husband, losing patience, assumed the role of interpreter with : "Essayez de répondre le plus court possible." Then she understood.

Notes of Cases.

House of Lords.

Birch Bros. Limited *v.* **Brown.** 11th June.

WORKMEN'S COMPENSATION—ACCIDENT—TOTAL INCAPACITY—OFFER OF OTHER WORK—LOSS OF EYE—REDUCTION OF COMPENSATION—EVIDENCE.

This was an appeal from the Court of Appeal and raised the question whether the appellants were entitled to a reduction of compensation payable to the respondent by reason of the fact that other work was offered to him which he could have done but for incapacity caused by disease and not by accident. The respondent was employed by the appellants as a wheelwright and van driver, and in the course of his employment met with an accident to his left eye which had to be removed. In October, 1927, the respondent was discharged from the appellants' employment, and in January, 1928, the county court judge made an award in his favour, and after numerous attempts to obtain work he applied for a review and the judge made an award for 30s. a week. In January, 1930, an insurance office with whom the appellants were insured offered the respondent employment as cleaner at £3 a week, which, on account of his eye-sight, he was obliged to reject. On an application by the appellants for a review, the judge reduced the weekly payments and found that £3 a week was the amount which the respondent was able to earn. On appeal the Court of Appeal set aside the award and remitted the case for an award for total incapacity to be entered in favour of the respondent.

Lord DUNEDIN delivered a dissenting judgment which was read by Lord Blanesburgh.

Lord WARRINGTON OF CLYFFE said the question was whether there was evidence on which the arbitrator could hold that the incapacity had ceased. The only fact relied on by the appellants was the offer of the insurance company, which, though in a sense a *bonâ fide* offer, was made by persons interested in bringing about the cesser of compensation. It was proved that the man was unfit for work owing to the deterioration of the right eye, the oculist's report being to the effect that, owing to the cataract, the man would probably be totally unfit for work in a few months. In those circumstances it was clear that the man could not do the work owing to causes independent of the accident, and an offer made under those conditions could not be relied upon as evidence of any earning capacity. He therefore held that there was no evidence that the incapacity had ceased to be total, and that for that reason the order of the Court of Appeal should be affirmed and the appeal dismissed.

Lords ATKIN, TOMLIN and MACMILLAN also gave judgment dismissing the appeal.

COUNSEL: *Edward Cave*, K.C., and *Gilbert Park*; *Edgar Dale* and *David Weitzman*.

SOLICITORS: *Percy M. Cole*; *Silkin & Silkin*.

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

High Court—Chancery Division.

In re **May : May** *v.* **Eggar.** Luxmoore, J. 18th June.

WILL—"UNTIL HE SHALL BECOME A CATHOLIC"—LIFE LONG CATHOLIC CANNOT TAKE—CHILD'S RELIGION.

Miss Alice Mary May died on the 3rd July, 1915. By her will dated the 7th February, 1914, she left £5,000 on trust to invest, the income to accumulate until her nephew, Michael May, should reach the age of twenty-four, and upon that event to pay the income of the whole sum then available to him for life "provided that he shall not be a Roman Catholic at my death, or being a Roman Catholic shall cease to be a Roman Catholic before the expiration of twelve calendar months after my death, until he shall after my death become a Roman Catholic." This matter first came before Neville, J. [1917] 2 Ch. 126, who held that although Michael May, who was then eleven years old, had been educated as a Roman Catholic, he was not a Roman Catholic within the meaning of the proviso, and that having attained the age of twenty-one, he would have an opportunity of making his choice. He was now twenty-four years old and was still a Roman Catholic.

LUXMOORE, J., in giving judgment, said that the question whether this proviso was contrary to public policy as interfering with the court's discretion as to the religious upbringing of the child, did not conclude the matter. Michael May could take nothing until he was twenty-four, and even then only until he should after the death of the testatrix become a Roman Catholic. This clause did not merely provide against a transition to Roman Catholicism, but disentitled him in case he should actually be a Roman Catholic at the time when he would otherwise have been entitled.

COUNSEL: *Spens*, K.C., and *Evershed*; *Vaisey*, K.C., and *Franey*; *Montgomery White*.

SOLICITORS: *Thomas Eggar & Son*; *Slaughter & May*; *Somerville, Philpot & Co.*, for *Morrell, Peel & Gamlen*.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

In re **Smith ; Public Trustee** *v.* **Smith.**

Bennett, J. 1st and 2nd July.

WILL—"UNTO MY COUNTRY, ENGLAND"—NO CHARITABLE GIFT—NO GIFT TO THE KING IN RIGHT OF HIS CROWN.

The testator, Theodore Wynford Smith, died on the 23rd April, 1930. By his will he devised all his estate "Unto my country England to and for own use and benefit absolutely." Three contentions were advanced: (1) On behalf of the next of kin, that the gift was void; (2) On behalf of the Attorney-General, that this was a valid charitable gift for the general benefit of the community as a whole and that the estate should be disposed of by the King under the sign manual; and (3) On behalf of the Solicitor-General, that this was a gift to His Majesty in right of his crown and should be paid into the consolidated fund, where it would enure for the benefit of the nation as a whole.

BENNETT, J., in giving judgment, said that the Attorney-General had relied on *West* v. *Knight*, 1 Cas. in Ch. 134; *A.-G.* v. *Earl of Lonsdale* (1827), 1 Sim. 105; *Mitford* v. *Reynolds* (1841), 1 Ph. 185; and *A.-G.* v. *Webster* (1875), L.R. 20 Eq. 483, to show that this gift should be interpreted as a gift for the general benefit of England as a whole and, as such, a good charitable bequest. He was prevented from so deciding by the ruling of the House of Lords in *In re Tetley* [1923] 1 Ch. 258, and [1924] A.C. 263. Assuming that the gift should be interpreted as for the general benefit of England as a whole, it was not a gift which must necessarily be confined to a charitable purpose, and therefore he was bound by this authority to hold that it was void. Nor could he hold that the testator intended the gift to go to the King in right of his Crown; should he do so, he would be merely guessing the testator's intentions. Therefore, the residuary estate was undisposed of.

COUNSEL: *J. H. Stamp*; *H. F. Greenland* and *Wilfrid Hunt*; *Stafford Crossman*, for *The Attorney-General*; *Andrewes-Uthwatt*, for *The Solicitor-General*.

SOLICITORS: *Walter Crimp & Co.*, for *Harold Michelmore and Co.*, of Newton Abbot; *Sharpe, Pritchard & Co.*, for *W. C. Cripps, Son & Harries*, of Tunbridge Wells; *Treasury Solicitor*.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

The King has been pleased to confer the dignity of Knighthood upon MR. RALPH B. P. CATOR LYE, Vice-President of the International Mixed Court of Appeal in Egypt, MR. CHARLES F. BELCHER, O.B.E., Chief Justice of Trinidad and Tobago, and MR. DONALD KINGDON LYE, Chief Justice of Nigeria.

High Court—King's Bench Division.

J. Lyons & Co., Ltd. *v.* Keating.

Lord Hewart, C.J., Avory and Charles, JJ. 6th May.

SYNTHETIC CREAM—CAKE FILLING—NOT REAL CREAM—BAKERY TRADE CUSTOM—ARTIFICIAL CREAM ACT, 1929 (19 & 20 Geo. 5, c. 32), s. 1 (1).

Case stated from the decision of the Swindon Justices.

On the 25th September, 1930, informations were preferred by the respondent, Charles Keating, an inspector of the Wilts County Council, the food and drugs authority charged with the enforcement of the Artificial Cream Act, 1929, against the present appellants, J. Lyons & Co., Ltd., alleging (1) that on the 26th July, 1930, at Swindon, they sold to Walter James Bedwin, for human consumption, under a description or designation including the word "cream," a substance purporting to be cream as defined in s. 6 of the Artificial Cream Act, 1929, which substance was not cream as so defined, contrary to s. 1 (1) of the Act; and (2) that on the 1st August, 1930, at Swindon, they made a similar sale to George Raven. The article sold to Bedwin was sold in a package labelled "Lyons' Swiss Rolls, Chocolate Sponge (Cream Filled), 1s." The article consisted of chocolate sponge roll lined with approximately 30 per cent. of a cream-like paste made of a mixture of sugar and emulsified fat, not derived from cream or milk. The substance was wholesome. The article sold to Raven was an article of food, and was sold in a package labelled "Lyons' Cream Sandwich (Vanilla Filled), 1s." The cream-like substance in that case also consisted of an emulsion of fat not derived from cream or milk, but which was also wholesome. Informations were also preferred in respect of the above sales under ss. 2 and 30 of the Food and Drugs (Adulteration) Act, 1928, and s. 2 (2) of the Merchandise Marks Act, 1887. The justices convicted the appellants and fined them £2 and £8 costs on each of the two summonses under the Artificial Cream Act, 1929, and the other summonses were adjourned pending the present appeal.

Lord HEWART, C.J., said that when he looked at the title and all the contents of the statute he thought that it was tolerably plain that what the statute was dealing with was the sale of cream or artificial cream *simpliciter*. What was being considered and dealt with in s. 1 (1) was a substance purporting to "be" cream or artificial cream. The words were "a substance purporting to be" not "a substance purporting to contain" cream. The Act was meant to point a strong contrast between natural and artificial cream. He thought that the argument of the appellants that the Act applied only to cream as a separate commodity was right.

AVORY, J., gave judgment to the same effect.

CHARLES, J., concurred.

COUNSEL: *Sir John Simon*, K.C., *Roland Oliver*, K.C., and *Cyril Salmon*, for the appellants; *G. D. Roberts* and *Elam*, for the respondent.

SOLICITORS: *Bartlett & Gluckstein; Calder, Woods & Co.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Ex parte Kylsant and Morland.

Lord Hewart, C.J., Avory and Charles, JJ. 29th June.

PROCEDURE—COMMITTAL FOR TRIAL AT CENTRAL CRIMINAL COURT—APPLICATION TO REMOVE CASE INTO HIGH COURT—CROWN OFFICE RULES, 1906, r. 13.

This was an *ex parte* application for a rule *nisi* for a writ of *certiorari* to remove into the King's Bench Division of the High Court the case in which Lord Kylsant is charged with publishing annual reports of the directors of the Royal Mail Steam Packet Company for 1926 and 1927 which, it is alleged, he knew to be false in a material particular, and Harold Morland, the auditor of the company, is charged with aiding and abetting Lord Kylsant in the commission of the alleged offences. Lord Kylsant is also charged with having, in June, 1928, published a false prospectus. Lord Kylsant and Harold John Morland were committed to take their trial at the next sitting of the Central Criminal Court. It was stated that there were many complicated questions of figures and of accounts, and that difficult questions might also arise regarding the duties of accountants, legal questions, and questions of what was the established practice. The Attorney-General (Sir William Jowitt, K.C.) said that he took up an attitude of complete neutrality to the application. By r. 13 of the Crown Office Rules, 1906: "No indictment . . . shall be removed into the King's Bench Division either at the instance of the prosecutor or of the defendant (other than the Attorney-General acting on behalf of the Crown), unless it be made to appear to the court or a judge by the party applying that a fair and impartial trial of the case cannot be had in the court below, or that some question of law of more than usual difficulty and importance is likely to arise upon the trial, or that a view of the premises in respect whereof any indictment is preferred, or a special jury, may be required for a satisfactory trial of the same."

Lord HEWART, C.J., in giving the judgment of the court, said that they had come to the conclusion that there was no sufficient reason why the application should be granted. There was no reason to think that a jury summoned to the Central Criminal Court to try the case there under the direction of a judge of the High Court would be any less well fitted to do so than a body of jurors summoned to the High Court. Application refused.

COUNSEL: *Sir John Simon*, K.C., and *Wilfrid Lewis* for Lord Kylsant; *Sir Patrick Hastings*, K.C., and *F. J. Tucker* for Morland.

SOLICITORS: *Holmes, Son & Pott; Slaughter & May.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Administrator of Austrian Property *v.* Russian Bank for Foreign Trade.

Swift, J. 1st July.

PEACE TREATY ORDER — ADMINISTRATOR OF AUSTRIAN PROPERTY—CLAIM ON BILLS OF EXCHANGE—INDORSED AND HELD BY EX-ENEMY BANK—STATUTE OF LIMITATIONS—CROWN'S EXEMPTION.

In this action the Administrator of Austrian Property, appointed under the Treaty of Peace (Austria) Order, 1920, sued the Russian Bank for Foreign Trade as acceptors of two bills of exchange for £2,100 and £900 respectively. Both bills, by Laferme, Limited, were dated 17/30 May, 1914, payable three months after date, and were accepted payable by the defendants. The Austro-Hungarian Bank, who at all material times were nationals of the former Austrian Empire, were at the material times indorsers and holders of the bills. The Administrator claimed that the bills were "property, rights and interests" within the meaning of the Order of 1920, and that he was entitled to all rights of recovery in respect thereof conferred by the Order. On presentation for payment on the 14th September, 1923, the bills were dishonoured, and the writ in the action was issued on the 14th November, 1929. It was admitted on behalf of the Administrator of Austrian Property that if the Statute of Limitations, 1623, applied, the writ was out of time. His contention was that he was in the position of the Crown and that that statute did not apply. For the defendants it was submitted that the general rule that the statute did not run against the Crown was subject to exceptions, and that it did not apply in the present case.

SWIFT, J., said that by the legislation passed at the beginning of the war, the bills in question were kept alive, at any rate until the 16th January, 1921. Before that date, under the Peace Treaties, the property in the two bills became vested in the Administrator, an official of the Crown. The Administrator, on the 14th September, 1923, demanded payment

of the bills. That demand was not complied with, and nothing further was done until the 14th November, 1929, more than six years after the demand, when the writ was issued. The only question left for decision was whether the Statute of Limitations, 1623, was applicable to prevent the Administrator from suing on the ground that he had not brought his action within six years. The defendants, while admitting that as a general rule of law statutes of limitation did not bind the Crown, contended that in this particular case the right of the Crown was barred by the particular terms of the Treaty. By para. (*ee*) of cl. (x), under which the Administrator acted: "Where the property right or interest subject to the charge consists of any sum of money due to an Austrian national . . . it shall be payable to the Administrator, and shall be paid to him on demand, and the Administrator shall have power to enforce the payment thereof, and for that purpose shall have all such rights and powers as if he were the creditor." It seemed to him (his lordship) that under the Treaty the Crown was entitled to the proceeds of those two Bills. It had handed them over to its agent for collection, and had entrusted its agent with the powers of the creditor, but he could find nothing stating that the agent was to abandon the power to say that the Statute of Limitations did not run against him. It was agreed that when the bills vested in the Administrator they were alive; the Crown had done nothing to deprive itself of the right to say that the Statute of Limitations did not apply. Judgment for the Administrator for the amount claimed, with costs.

COUNSEL: *Wilfrid Lewis*, for the Administrator of Austrian Property; *Rayner Goddard*, K.C., and *Harold Murphy*, for the defendants.

SOLICITORS: *The Solicitor to the Clearing House; Stephenson, Harwood & Tatham.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Probate, Divorce and Admiralty Division

R. G. *v.* R. G. and A.

Langton, J. 16th February, 10th and 25th March.

DIVORCE — PROCEDURE — TRIAL BY JURY — PETITION FOR DISSOLUTION—CROSS-PRAYER IN ANSWER FOR JUDICIAL SEPARATION ON GROUND OF CRUELTY—CONTESTED ISSUE OF FACT—PARTY CANNOT DEMAND JURY AS OF RIGHT—MATRIMONIAL CAUSES RULES, 1924, rr. 30 (A), (B)—JUDICATURE (CONSOLIDATION) ACT, 1925 (15 & 16 Geo. V, c. 49), ss. 99 (*h*), 103, 177, 226, Sched. 6 (repealing Matrimonial Causes Act, 1857 (20 & 21 Vict., c. 85), ss. 22-31, and ADMINISTRATION OF JUSTICE ACT, 1925 (15 & 16 Geo. V, c. 28), ss. 1-18.

This summons adjourned into court raised the question as to the right of a party to a matrimonial suit to insist on a contested issue of fact being tried by jury. The husband petitioned for dissolution on the ground of the wife's adultery with the co-respondent. The respondent and co-respondent filed answers denying adultery, the wife in addition alleging cruelty on the part of the petitioner upon which ground she sought a decree of judicial separation. The wife obtained an order for trial by special jury, but when the questions for the jury came to be settled the Registrar refused to approve the inclusion of the question relating to cruelty. The wife accordingly took out a judge's summons asking that the issue of cruelty might be ordered to be decided by the jury. Counsel submitted full arguments dealing with the course of procedure and practice since the Matrimonial Causes Act, 1857.

LANGTON, J., in delivering a considered judgment, in which he reviewed the whole course of legislation governing the right of a party to a matrimonial suit to trial by jury, said that in the original Matrimonial Causes Act, 1857, the right had been confined to contested matters of fact in suits for dissolution only. The allegations of cruelty in the present suit did not form any part of the basis of a claim for divorce. The Matrimonial Causes Rules of 1866 and 1880 and the Juries Act of 1918 and the Administration of Justice Act, 1920, preserved the right to a jury as existing under the Act of 1857. On the other hand, the present Matrimonial Causes Rules of 1924 prescribed that, with the exception of claims for damages, all causes shall be heard by the court itself unless a Registrar shall otherwise order. The Judicature (Consolidation) Act, 1925, had repealed the relevant section of the 1857 Act, and therefore in his (his Lordship's) view the only statutory enactment giving a right to insist on trial by jury had gone, and only the Rules of 1924 remained to govern the mode of trial of matrimonial causes. He must therefore use his discretion in determining whether the issue of cruelty in the present case should be tried by jury or not. Having regard to the nature and number of the charges he had come to the conclusion that the issue ought not to be tried by jury. Leave to appeal was given.

COUNSEL: *Roland Oliver*, K.C. (*T. Bucknill* with him) for the petitioner; *Willis*, K.C. (*Tyndall* with him) for the respondent.

SOLICITORS: *Morgan, Price, Marley & Rugg; Wingfields, Halse & Trustram.*

NOTE.—On the 14th April, the Court of Appeal (Hanworth, M.R., Lawrence and Romer, L.JJ.), delivered judgments dismissing the appeal.

[Reported by J. F. COMPTON-MILLER, Esq., Barrister-at-Law.]

Pilot *v.* Gainfort and Others.

Lord Merrivale, P. 26th March.

PROBATE—WILL IN CONTEMPLATION OF MARRIAGE—DESERTION BY WIFE OF PRIOR MARRIAGE—LAPSE OF SEVEN YEARS—HOLOGRAPH WILL IN FAVOUR OF AFTER-TAKEN WIFE—SECOND MARRIAGE—PRESUMPTION OF VALIDITY OF SUBSEQUENT MARRIAGE—LAW OF PROPERTY ACT, 1925 (15 Geo. 5, c. 20), s. 177, sub-s. (1).

In this probate action the plaintiff propounded a will of Dr. Frederick William Harcourt Pilot, who died on 19th February, 1930. Certain relatives of the testator living in Canada were made defendants, but the case was not contested. The plaintiff was the sole beneficiary under the will, and was described therein as "Diana Featherston Pilot, my wife." The will was dated 12th February, 1927. The testator and the plaintiff subsequently married on 15th August, 1928. The plaintiff met the testator in 1924, she then being Mrs. Featherston, a widow. The testator told her that he had been previously married, but some years before 1924 his wife had left him and returned to her people in America. The testator and the plaintiff then formed and carried out the intention of marrying so soon as the seven years to establish the legal presumption had elapsed. Towards the end of that period the testator made the holograph will now propounded. Counsel for the plaintiff submitted that the marriage in 1928 must be held, on the authorities, to be valid, and that the will was good under s. 177 (1) of the Law of Property Act, 1925, as having been made in contemplation of the marriage. The plaintiff gave evidence of the testator's expressed intentions and of communications made by him with regard to his former marriage.

Lord MERRIVALE, P., in giving judgment, said that the testator had undoubtedly desired that the property he possessed to which the plaintiff had largely contributed should vest in her. The testator had had an unfortunate matrimonial history before he met the plaintiff. He had told the plaintiff that he had gone through a ceremony of marriage with another woman, who, about nine years ago now, had quitted him and gone back to her family in America. There was no proof of this marriage, and it was a long time since that woman had disappeared from the scene. The law was clear

that the court was entitled to presume the validity of the second marriage in the absence of proof that the first wife was then alive. He (his Lordship) therefore held that the marriage of August, 1928, was a good marriage. That marriage had been in contemplation a very long time, and in those circumstances the testator had written out the will now before the court. It was part of the old English law that if either spouse contracted marriage subsequently to the execution of a will, that will was thereby annulled. If the present transaction had taken place ten years back, the will could not have stood, but it happened quite aptly in the present circumstances that the Law of Property Act, 1925, made an exception to the old law with regard to wills made in contemplation of marriage. There could be no doubt that the will in the present case was made in contemplation of the marriage which subsequently took place, and therefore was a good will. The plaintiff would have a grant of administration with the will annexed.

COUNSEL: *Tyndale*, for the plaintiff.

SOLICITORS: *Coulson & Coulson.*

[Reported by J. F. COMPTON-MILLER, Esq., Barrister-at-Law.]

Court of Criminal Appeal.

Rex *v.* Collinson.

Lord Hewart, C.J., Avory and Charles, JJ. 29th June.

CRIMINAL LAW—MOTOR CAR—DRIVING UNDER INFLUENCE OF DRINK — RACECOURSE — "PUBLIC PLACE" — ROAD TRAFFIC ACT, 1930 (20 & 21 Geo. 5, c. 43), s. 15 (1).

Appeal against conviction.

The appellant in this case was convicted at Berks Assizes of driving a motor car when under the influence of drink contrary to sub-s. (1) of s. 15 of the Road Traffic Act, 1930. He was fined £10 by Wright, J., and his driving licence was suspended for twelve months. By s. 15, sub-s. (1), of the Act of 1930: "Any person who when driving or attempting to drive, or when in charge of, a motor vehicle on a road or other public place is under the influence of drink or a drug to such an extent as to be incapable of having proper control of the vehicle, shall be liable . . ." The appellant, on the 24th March, 1931, had driven a party by motor car to a race meeting near Wokingham, Berks. The races took place over fields to which the public usually had no access, but to which on the day of the races the farmer owners admitted pedestrians free, a charge, however, being made for the admission of motor cars. After the races, and while driving with his passengers across one of the fields to the road, the appellant was stopped and arrested. On behalf of the appellant it was contended that the field in which he was driving the motor car when he was arrested was not a "public place" within the meaning of sub-s. (1) of s. 15 of the Act of 1930; and that those words, "public place," should be construed as *ejusdem generis* with "road."

Lord HEWART, C.J., giving the judgment of the court, held that the field over which the motor car had been driven was, on the facts of the case, a "public place" within the meaning of s. 15 (1). The appeal would be dismissed.

COUNSEL: *A. Ralph Thomas* for the appellant; *R. G. Micklethwait* for the Crown.

SOLICITORS: *T. W. Stuchbery*, Maidenhead; *The Director of Public Prosecutions.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

At the annual meeting of the Society of City and Borough Clerks of the Peace, held at York recently, under the Presidency of Mr. Percy J. Spalding, Clerk of the Peace for that City and Borough, Mr. F. G. ALLEN, Portsmouth, was elected President for the ensuing year; Sir A. COPSON PEAKE, Clerk of the Peace for the City and County Borough of Leeds, was re-elected Hon. Treasurer; and Mr. E. M. REDHEAD, Clerk of the Peace for the City of Manchester, Hon. Secretary.

The Law Society.

The Annual General Meeting of this Society was held on 10th July.

Sir ROGER GREGORY, the retiring President, who presided, announced the election of Mr. Philip Hubert Martineau as President and Mr. Charles Edward Barry as Vice-President.

Mr. MARTINEAU, in reply, expressed his deep sense of the responsibility of the office and his intention to devote all his energies to filling it successfully and to maintaining the honour of the profession. He remarked that this year was the hundredth anniversary of the occupancy by the Society of their present hall. His grandfather, of the same name, had taken a prominent part in the construction and furnishing of the Society's hall, and he would try to follow in his ancestor's footsteps and make his aim the welfare of the Society.

Mr. BARRY, also in reply, stated that he was an Irishman and also a provincial representative. Neither of those facts, he hoped, would disqualify him from performing his duties to the best of his ability during the coming year.

The PRESIDENT, after announcing the names of candidates for election, proposed the re-election of Mr. John S. Chappelow as auditor to the Society, and Mr. W. H. P. Gibson and Mr. C. R. Hills as honorary auditors. This motion was carried unanimously.

Mr. A. C. MORGAN, the hon. treasurer, seconded the adoption of the accounts, moved by the President. The year had been, he said, a fairly normal one. There had been for the first time in many years a reduction in the amount received for examination fees, but the number of students attending the Law School had increased. The accounts were adopted unanimously.

The RETIRING PRESIDENT, in moving the adoption of the annual report, recalled that the meeting to which Mr. Martineau had referred, the first held in the Society's hall, had been attended by Mr. Thomas Adlington, a partner of Sir Roger's grandfather. Ever since that time members of his firm had been interested in the work of the Council. Whether because of that fact or in spite of it, the profession never stood higher than at the present day. It was a most powerful body; one whose opinions were considered and invited by the rulers of the land. Sir Roger touched on the visit to Canada and the United States, of which delegates retained the happiest memories; they had, he hoped, left behind them a not unfavourable impression of the solicitors of this country.

LEGISLATION FOR PROFESSIONAL DISCIPLINE.

At about this time in the previous year the Society had, he said, been in the throes of discussion of the "Solicitors Bills." The Society's Bill and that of Sir John Withers had been just about to come before Parliament; the important difference between them had been that Sir John's Bill had suggested a compulsory audit of all solicitors' accounts, while the Society's Bill had been drawn on the lines of giving the Society powers to enable it to keep its own house in order. Sir John Withers had now joined forces with the Society and abandoned his idea of compulsory audit. (Some members might, indeed, have doubts in these days whether an auditor's certificate was a panacea for all troubles!) Sir John's Bill had been referred to a committee and the Society's Bill had been talked out by a member of the Labour Party, so that the Society had been unable to proceed further in the House of Commons. Nevertheless, the Council hoped to be able to proceed by way of the House of Lords, with the co-operation and goodwill of Sir John Withers and his supporters. The Society was in a position to say that it had done all it could, but the Council were not going to take that attitude. (Applause.) They meant to proceed, and to do all they could to make the discipline of the profession as effective as, and more exacting than, that of any other profession in the country.

THE COSTS OF LITIGATION.

The London Chamber of Commerce had communicated to the Lord Chancellor a well-considered report on the costs of litigation. The Lord Chancellor had invited Sir Roger to attend a meeting of judges to hear the case put by the Chamber of Commerce, and had subsequently invited the opinions of The Law Society and the Bar Council. The Society had forwarded a memorandum containing practical suggestions for cheapening litigation. On the other hand, Sir Roger was not in favour, he said, of "go-as-you-please" or "hedgerow" justice, but of adherence to the rules of evidence. Whether those rules could be modified to eliminate mere formality was a matter for the judges and the Rules Committee. The Society would support the Lord Chancellor in reducing costs to the lowest possible limits consistent with efficiency and reasonable remuneration. A suggestion of the Society, of which the Bar Council had approved, had been the institution of a kind of preliminary hearing, in the nature of a summons for directions, before the judge himself after

the issues had been developed by the delivery of the pleadings, so that the judge might be able to decide upon what points he required evidence and in what form that evidence could be most readily taken. This would eliminate unimportant side issues, which cost so much and meant so little.

One of the points which had been raised before a committee which had sat on patent law under the chairmanship of Lord Justice Sargent had been whether communications between patent agents and their clients should receive the same measure of privilege as communications between a solicitor and his client. Sir Roger and Mr. Henry Cooke, the well-known patent lawyer, had attended that committee and spoken against the extension of the privilege, pointing out that the extension could not stop at patent agents. The committee had decided that no change ought to be made. The committee had been of opinion, also, that the ambit of patent agents in proceedings in court should not be enlarged.

As an example of the work done by the Council, Sir Roger mentioned that the Professional Purposes Committee had dealt with more than 1,100 inquiries, complaints and similar matters during the year. The committee that sat to deal with scale cases, the Legal Procedure Committee, and the House Committee were similarly active. It was not only untrue but unkind to say that the Council had no interest in the affairs of the small solicitor; much of their work concerned the small man more than the large firm. As an example of its work, through the representations of Sir Donald Maclean, the President of The Law Society had been included in the committee proposed to be set up under the Finance Bill for the appointment of a panel of referees.

The Education Committee had propounded a scheme, an important point in which was that a boy before entering into articles should have the opportunity of attending a law school, so that he might understand something of what he would have to do before he and his parents bound themselves. He would have to be to a certain extent at a loose end while he was attending the course, and the matter required careful consideration. The local societies had been invited to give their opinions, and he hoped that some decision would be reached in the coming year.

Sir Roger thanked all solicitors who had helped in conducting the work of poor persons' cases, and recommended the clerks' pensions scheme to all members. This scheme, which was under excellent management and had promised very well during its first year, was similar to schemes which had proved successful on the Stock Exchange and other large institutions.

Mr. MORGAN seconded the adoption of the Annual Report.

DISCUSSION.

Mr. E. A. BELL deprecated the provision in the Society's Bill for compulsory membership. The Society, he said, did not want unwilling members. It consisted of brothers, not conscripted members. It had complete control over solicitors whether they were members or not. He referred to the article in THE SOLICITORS' JOURNAL, 4th July, 1931, p. 433, advocating the institution of a flat rate for litigation according to the value of the matter in dispute, and suggesting that counsel should consider the adoption of the custom which obtained in nearly all other countries: that the fee marked on the brief should apply to the conduct of the proceedings, and that, in addition, there should be marked an agreed *complimentaire* in the event of success. He condemned the necessity for filing two affidavits in Chancery suits. He spoke in support of the Wills and Intestacies (Family Maintenance) Bill, which was supported by two Members of Parliament who were also members of The Law Society.

Mr. H. S. SYRETT, speaking from the public rather than the lawyer's point of view, expressed great disappointment at the proposals made for reducing the costs of litigation. The report gave the impression, he said, that the one idea of the committee and the Council was to shelve the whole business. The Council should not wait for the Lord Chancellor, the Rules Committee or the Bar Council, or anybody else, before tackling the problem forcibly.

Mr. SPERO agreed. He doubted whether lawyers realised what the public expected from them, and that the popular phrases to the detriment of lawyers indicated a real feeling that the lawyer regarded the making of a profit as more important than the efficient administration of justice. References by lawyers in official reports and elsewhere to increase in litigation left an unpleasant taste in the mouth of the outside observer. The function of the lawyer should be that of a helpful adviser and a solver of problems, not that of a creator of disputes. He disapproved of poor persons' procedure in so far as it encouraged strangers to meddle with the law who otherwise would not. There was, he said, a very strong feeling that services rendered free were not worth having. It was high time that the Society took an international stand on certain matters that ought to be administered in the spirit of an international code. The Council should inaugurate an international conference for the purpose of determining internationally such questions as inheritance, domicile, divorce, and the nationality of married women. Such a conference would be received by the judges of all countries and by the League of Nations with respect, and would do the Society much credit.

Mr. BARRY O'BRIEN rejoiced in the election of an Irishman bearing part of his own name to the position of Vice-President, and remarked that few Englishmen ever deprecated any Irish blood they might possess. He objected profoundly to both the Solicitors Bills. They would in the end, he said, lower the dignity of the profession while increasing enormously the emoluments of the chartered accountants' profession. He asked whether solicitors might live free from worry until, at least, Christmas.

Mr. N. STANSBURY declared that it was not the fault of the profession that the costs of litigation were high, nor was it the practice of solicitors to increase them. The private charges of a solicitor were a very small proportion—as would appear from the specimen bill of costs in the annual report. They were unable to prevent their clients from employing fashionable counsel or to restrict their charges. Nevertheless, the whole blame was thrown upon them.

The PRESIDENT replied to Mr. O'Brien that he might sleep in peace for the present, for there appeared to be no chance of either of the Bills coming before Parliament until after he had eaten his Christman dinner. He hoped that a Bill would be evolved that would suit even Mr. O'Brien. In reply to Mr. Syrett, he complained that that speaker's remarks had not been quite fair to the memorandum contained in the annual report, which dealt with the whole subject in detail and contained practical suggestions for reducing the costs and expediting procedure.

Mr. SYRETT said that he had merely suggested mildly that the impression that the public might gain from the memoran dum was that the Council were sitting still and waiting for somebody else to move. He was quite satisfied that they had done everything possible.

The annual report was adopted unanimously.

The meeting terminated with a vote of thanks to the President, which was proposed by Mr. A. C. BORLASE, of Brighton, and carried with acclamation.

Societies.

Solicitors' Benevolent Association.

The usual monthly meeting of the directors of this Association was held at 60, Carey-street, London, on the 8th July, Mr. Ernest F. Dent in the chair. The other directors present were Sir Norman Hill, Bart., and Messrs. F. E. F. Barham, A. C. Borlase (Brighton), T. G. Cowan, T. S. Curtis, A. G. Gibson, C. G. May, H. A. H. Newington, A. T. Plant, M. A. Tweedie and A. B. Urmston (Maidstone). The sum of £1,312 was distributed in grants of relief; five new members were admitted and other general business transacted.

Chester and North Wales Incorporated Law Society.

The fiftieth annual meeting was held at the Town Hall, Chester, on Wednesday, 3rd June, 1931, the retiring President, Mr. Henry G. Hope, Chester, in the chair. It was reported that the Society now numbers 195 members.

The John Allington Hughes Prize for 1930 was presented by the Chairman to Mr. Charles Harold Crebbin, who served his articles with Mr. Charles Crebbin, of the firm of Messrs. Carter, Vincent & Co., Bangor, and gained First Class Honours in November last. The Sir Horatio Lloyd Prize was awarded to Mr. Horace Ronald Davies, who served his articles with Mr. David Hughes, of Chester, and gained Third Class Honours in June last.

The following were elected officers of the Society for the ensuing year: President, Mr. J. H. Bate (Wrexham); Vice-President, Mr. J. P. Whittingham (Nantwich); Hon. Treasurer Mr. T. Moore Dutton (Chester); Hon. Secretary, Mr. Henry G. Hope (Chester); Assistant Hon. Secretary, Mr. Alan M. Miln (Chester); Hon. Auditors, Messrs. W. H. Barnes and George H. Evans (both of Chester). The following with the first five named officers are the Committee for the year, viz.: Messrs. J. J. Marks (Llandudno); J. D. H. Osborn (Colwyn Bay); David Hughes (Chester); Mark J. Fletcher (Northwich); F. Horace Cooke (Crewe); R. Gordon-Roberts (Llangefni); Joseph Lloyd (Rhyl); W. A. V. Churton (Chester); H. L. Reade (Congleton); S. C. Richards

(Llangollen); J. Pentir Williams (Bangor); and Cyril O. Jones (Wrexham).

The annual dinner was held in the evening at the Grosvenor Hotel, under the Presidency of Mr. J. H. Bate. The guests of the Society were the Right Worshipful the Mayor of Chester, (Councillor John Morris), Dr. Lees (President of the Chester and North Wales Medical Association), Mr. J. P. Elsden, Mr. Basil E. Nield and Mr. C. H. Crebbin.

Society for Jewish Jurisprudence.

Mr. Bertram B. Benas, B.A., LL.B., Barrister-at-Law (of Liverpool), delivered a lecture on Monday, the 6th inst., before the members of the Society for Jewish Jurisprudence in the Lecture Room, Inner Temple, on "A Plea for an English History of Jewish Law." Mr. Herman Cohen, M.A., Barrister-at-Law, Vice-President, presided. Mr. Benas, in the course of his lecture, said that there was a wealth of juristic material in the period, roughly speaking, of 2,000 years of post-biblical Jewish history which was practically unknown to all but those who were Talmudical scholars. That was largely due to the fact that the material was in one or other of the Semitic languages which were unfamiliar to occidental jurists in general. He did not suggest such a history in order to obviate the study of those languages, but, on the contrary, in order to stimulate their study by the disclosing in an English form for English-reading scholars the rich material available. England had produced one eminent Gentile jurist who had much learning in Jewish law, namely, John Selden, of the Inner Temple, and John Reeves, of the Middle Temple, a pioneer historian of English law, and Charles Butler, of Lincoln's Inn, the great conveyancer, were among the learned Gentile English lawyers who had a working acquaintance with Hebrew. But these were exceptions which proved the rule, and he (the lecturer) urged the writing of a co-operative Jewish legal history in English on the lines of the Oxford and Cambridge syndicated histories, not so much with a view to giving Jewry its due in the world of legal learning, but that Jewry should thereby have the better chance of giving its due to the world of legal scholarship, a due which remained unpayable because of comparative inaccessibility. Such co-operation could only be of value if taken in hand by scholars in both the Jewish and the Common Law so far as England and America were concerned, and co-operation should be based on claims of scholarship alone without any regard to forms of spiritual adherence. The lecturer urged the claims of full fellowship in this work with America, where such magnificent efforts in English legal history had so brilliantly succeeded. A discussion followed, and thanks were accorded to the lecturer on the motion of the Chairman.

Society of Public Teachers of Law.

The twenty-third annual meeting of the Society was held at Oxford on Friday and Saturday, the 10th and 11th July, at the invitation of the Oxford Law Faculty. On Friday afternoon, at meetings in the Hall of Lincoln College, papers were read on "The Place of Roman Law in the Teaching of Law To-day," by Mr. H. G. Hanbury, and on "The Use of Comparative Law," by Dr. H. C. Gutteridge. The latter paper embodied a plea for the recognition of the subject by English Universities in view of its growing importance and development on the Continent, and was also directed to informing members of the scope of the important Congress of the International Academy of Comparative Law, to be held at The Hague in August, 1932. A discussion followed each paper.

There was also a garden party in Trinity College, on the invitation of the Principal of Jesus College and Mrs. Hazel, Sir William and Lady Holdsworth and Mr. P. A. Landon. In the evening members of the Society, to the number of about 100, were entertained at dinner by the Law Faculty in the Hall of Jesus College.

On Saturday morning the annual meeting of the Society was held in Lincoln College. The Principal of Jesus College (the retiring President) addressed the meeting on "Law Teaching and Law Practice," with particular reference to co-ordination in professional and University training. A discussion followed. The Editorial Committee, under the Chairmanship of Professor R. A. Eastwood (University of Manchester), which had compiled the Bibliography of English Real Property Law, published in the February number of the Journal of Comparative Legislation, was accorded a hearty vote of thanks.

The following were elected officers for 1931–32:—

As President: Professor J. D. I. Hughes (University of Leeds).

As Vice-President: Professor F. de Zulueta (University of Oxford).

As Hon. Treasurer: Mr. P. A. Landon (University of Oxford and The Law Society's School of Law).

As Hon. Secretary: Mr. E. C. S. Wade (University of Cambridge and The Law Society's School of Law).

The Law Society.

LAW STUDENTSHIPS FOR 1931.

The Council of The Law Society, acting on the recommendation of the Legal Education Committee, have made the following award of three studentships of the annual value of £40 each, tenable for one year, but renewable at the discretion of the Council:—

CLASS A.

(Candidates under 19 years of age.)

Mr. EWAN PERRINS WALLIS-JONES (educated at Carmarthen Grammar School and Mill Hill School, and articled to Mr. Ivor Evans, of Aberystwyth).

CLASS B.

(Articled clerks having not less than three years to serve.)

Mr. STEPHEN JUSTICE CONSTANCE (educated at Tonbridge School and The Law Society's School, and articled to the Hon. E. Eliot, of London).

Mr. PHILIP CHARLES FENNER LAWTON (educated at Westminster School and The Law Society's School, and articled to Mr. W. W. Hargrove, of London).

Each studentship is awarded on the condition that the holder proceeds and continues to pursue a course of studies for a Law degree; and it is understood that Mr. Wallis-Jones will pursue such course at the University College of Wales, Aberystwyth, which is a constituent College of the University of Wales. The others are, as stated, members of The Law Society's School of Law.

HIGHLY COMMENDED IN CLASS B.

Mr. MONTAGUE COHEN (educated at Leeds Central High School and the University of Leeds).

INCREASE OF SERIOUS CRIME.

Mr. Justice McCardie, in opening the Birmingham Assizes on Tuesday, said: "I think it my duty to state clearly for the knowledge of all that the serious crime of the country is greater to-day than at any time during the last sixty years."

He said he realised more and more that drink had very little to do with the serious crime of this country, and the causes were to be found elsewhere. Though the calendar was light, they must be under no delusions as to the country as a whole. It was quite true that the number of prisoners grew steadily less, and that the number of prisoners convicted seemed to diminish, but the number of crimes actually committed grew steadily greater. It was vital to remember not only the indictable offences which were detected and prosecuted, but also those which, though detected, were not prosecuted, because the offender was either unknown or could not be arrested. In 1929 the number of indictable offences known to the police was 134,581, an increase of more than 4,000 compared with the year 1928.

There had been no increase in the last sixty years in crimes of violence, but there had been a steady increase in housebreaking, shopbreaking, larceny, false pretences, and embezzlement, blackmail, and above all many cases of fraud. Perhaps the greatest feature of recent years was that the number of boys under the age of sixteen found guilty of indictable offences was very much greater in 1929 than in 1907. There had also been a regrettable increase of crime by boys between sixteen and twenty-one years of age and also by those between twenty-one and thirty. Those facts must cause deep concern to every citizen who wished to face the realities of national life.

Later, in passing sentence of four years' penal servitude on Charles Boden White, 31, a carpenter, who pleaded "Guilty" to burglary and to being in possession of housebreaking implements at night, Mr. Justice McCardie said he believed a good deal of the increase in crime was due to the fact that the courts had been imposing unduly short sentences which did not give prisoners an opportunity of being adequately trained. People who fixed short sentences were not aware of the realities of crime in this country.

Col. F. G. LANGHAM, M.A., LL.B. (Cantab.), C.M.G., solicitor (a member of the firm of Langham, Douglas Langham and Owen, solicitors, Hastings), Clerk to the Borough Justices of Hastings, and to the Justices of the Hastings Division of the County of Sussex, was at the recent celebrations at Falaise granted "Les Palmes Académiques" as Officier of the Académie.

BANQUET TO HIS MAJESTY'S JUDGES.

Colonel The Rt. Hon. Sir W. Phené Neal, Lord Mayor, and the Lady Mayoress, entertained His Majesty's Judges to a Banquet in the Grocers' Hall on the 10th inst. Among the distinguished guests were Lord Sankey (Lord Chancellor) and Miss Sankey, Lord Hewart (Lord Chief Justice) and the Lady Hewart, Lord Hanworth (Master of the Rolls) and the Lady Hanworth, the Marquess of Reading, Lord Warrington of Clyffe and the Lady Warrington of Clyffe, Lord Wrenbury and the Lady Wrenbury, Lord Tomlin and the Lady Tomlin, Lord Thankerton and the Lady Thankerton, Lord Macmillan and the Lady Macmillan, Lord Justice Scrutton and Lady Scrutton, Lord Justice Greer and Lady Greer, Lord Justice Slesser and Lady Slesser, Mrs. St. John Evers, Sir Dinshah Fardunji Mulla and Lady Mulla, Mr. H. Collison (Master of the Grocers' Company), Mrs. Combe, The Hon. Mr. Justice Avory, The Hon. Mr. Justice Eve and Lady Eve, The Rt. Hon. Sir Leslie Scott, K.C., The Hon. Mr. Justice Swift and Lady Swift, Sir Sidney Nettleton, Mrs. Harold Gabb, Alderman and Col. Sir Vansittart Bowater, Bt., M.P., and Lady Bowater, Alderman Sir George Wyatt Truscott, Bt., Sir Cecil Hurst and Lady Hurst, Sir William Jowitt, K.C. (Attorney-General), and Lady Jowitt, The Hon. Mr. Justice Wright and Lady Wright, Mr. Justice Talbot and Lady Talbot, Mr. Justice Hawke and Lady Hawke, Mr. Justice Clauson and Lady Clauson, Sir Grimwood Mears (Chief Justice of the Allahabad High Court) and Lady Mears, Mr. Justice Luxmoore and Lady Luxmoore, Mr. Justice Farwell and Lady Farwell, Mr. Justice Bennett and Lady Bennett, Mr. Justice Langton and Lady Langton, Justice Surveyor (Superior Court, Quebec), Mr. Justice Hodgins (Supreme Court of Ontario) and Mrs. Hodgins, Mr. Justice Blackwell (India) and Mrs. Blackwell, Mr. Alderman and Sheriff Maurice Jenks and Mrs. Jenks, Alderman Sir Percy Vincent and Lady Vincent, Alderman Sir Stephen Killik, Alderman Sir Frank Bowater and Lady Bowater, Alderman Sir George Broadbridge and Lady Broadbridge, Mr. F. L. Sargent, J.P. (Mayor of Islington), Lieut.-Col. R. O. Henriques, J.P. (Mayor of St. Marylebone), Mr. A. F. I. Pickford (City Solicitor) and Mrs. Pickford, Sir Henry F. Dickens, K.C. (Common Serjeant), and Lady Dickens, Mr. A. B. Howes (Puisne Judge, Gold Coast), Sir Francis Newbolt (Official Referee), Mr. Cecil Whiteley, K.C. (Chairman of London Sessions), and Mrs. Whiteley, Mr. F. T. Barrington Ward, K.C. (Metropolitan Magistrate), Alderman and Col. Sir Louis Newton, Bt., and Lady Newton, Alderman Sir Charles Batho, Bt., and Lady Batho, Sir Boyd Merriman, K.C., M.P., and Lady Merriman, Sir W. F. Kyffin Taylor, G.B.E., K.C. (Railway and Canal Commission), and Lady Taylor, Sir J. C. Dove-Wilson, K.C., Sir George A. Bonner (King's Remembrancer), Judge Holman Gregory, K.C., Mr. Justice H. R. Pancksridge (India), Sir Ewen Logan (N. Rhodesia), Mr. Philip Martineau (President of The Law Society) and Mrs. Martineau, Sir Claud Schuster, K.C., Sir Thomas Hughes, K.C. (Chairman of the General Council of the Bar), and Lady Hughes, Sir Fiennes Barrett-Lennard (Chief Justice of Jamaica), Sir Michael McDonnell (Chief Justice, Palestine), Sir Charles Findlay (Judicial Commissioner, Central Provinces), Sir Ernest Wild, K.C. (Recorder of London), and Lady Wild, Judge Sir Alfred Tobin, K.C. (Treasurer of the Middle Temple), Mr. E. H. Tindal Atkinson (Director of Public Prosecutions), The Hon. Sir R. Stafford Cripps, K.C., M.P. (Solicitor-General), and The Hon. Lady Cripps, Mr. D. N. Pritt, K.C., and Mrs. Pritt, Lieut.-Col. M. C. Matthews (Mayor of Greenwich) and Capt. J. F. C. Bennett (Mayor of the City of Westminster).

After the loyal toasts had been honoured, the Lord Mayor proposed the toast of "The Lord High Chancellor." To those who desired information about Lord Sankey's distinguished predecessors, he recommended a study of Lord Campbell's "Lives of the Chancellors." The City, in common with the whole commercial community, was following, he said, with a not unselfish interest, the report of the London Chamber of Commerce upon the expense of litigation, and the views that had been expressed by the Bar Council and The Law Society. He asked the Lord Chancellor's guidance on this thorny path. As an old member of The Law Society, he recognised gladly the happy relations which existed between that society and the Lord Chancellor's office. This pleasant state of affairs was due to the human understanding of Lord Sankey and to the assiduity of his staff. His lordship's advice was sought upon many matters of urgent public concern, and the City rejoiced that the Anglo-Indian deliberations should have been presided over by a man of such acumen, impartiality and common-sense. (Applause.)

Lord SANKEY, in reply, stated that he had read Lord Campbell and had gathered that the Chancellors who had preceded his lordship had been a very poor lot of men; he was glad that Lord Campbell had written before his own day! He rejoiced to see a member of the legal profession occupying the office of Chief Magistrate of the world's greatest city. The City and the profession alike mourned the loss of Sir William Waterlow. One of the most distinguished members of the Grocers' Company was Lord Hanworth, the Master of the Rolls, who had often presided within these walls with the same dignity as he exhibited daily in another place. There were unfortunately heavy arrears in the work of the courts. They had lost no less than 309 judicial days through illness among the judges—the equivalent of nearly three judges' whole time—from October to Easter. It was said that the lapse of time between the issue of a writ and the hearing of a case induced some persons to contest just claims in order to gain time to pay. If that were so, it might be necessary to ask Parliament to increase the number of King's Bench judges, who were only sufficient to keep abreast of the work if no sickness occurred. Four commissioners of assize had been appointed, but this was not a very satisfactory way of dealing with the situation; the lords justice of appeal had very kindly come to the assistance of the courts of first instance, but might not be entitled to hear appeals from their own decisions! Heavy lists on circuit and the numerous divorce cases now tried in the provinces had much increased the work of the King's Bench. Moreover, the large number of motor-car accidents, though a godsend to the Bar, was not so welcome to the judges. He paid tribute to the admirable work of the county court bench, whose duties Parliament had again increased. Their remuneration was, he said, inadequate for their services.

He had received the views of The Law Society and the General Council of the Bar on the recommendations of the London Chamber of Commerce towards cheapening litigation. Nothing could be done this side of the Long Vacation, but he intended during the recess to take these opinions into most careful consideration. He hoped that it would be possible to deal with some of the recommendations administratively through the Rules Committee, if litigants would take advantage of that committee's suggestions. He could not hold out much hope of introducing controversial legislation in the near future, but he should not hesitate, if he could find any measure upon which he could get agreement, to introduce it. He complimented the profession upon the work its members had done in the interests of poor persons. (Applause.)

The LORD MAYOR, proposing the toast of "His Majesty's Judges," welcomed Lord Hewart on his return to the bench after his illness. He pleaded that litigation might be expedited as well as cheapened.

Lord HEWART, in reply, thanked the Lord Mayor for his generous personal welcome and for his hospitality. It was a pleasure to return to the kindness and goodwill of the city.

"THE PROFESSION OF THE LAW."

Lord READING, in proposing "The Profession of the Law," paid tribute to the law as an emblem of the union of mankind in society and as an unsurpassed mental training and discipline for character. It taught men to avoid jealousy and accept generously the successes of their rivals. To entertain a large number of judges from overseas was in accordance with the traditions of the city, which never forgot the Empire. This country had conferred upon India the greatest of all benefits: purity of justice and impartiality of administration.

Sir WILLIAM JOWITT, in reply, remarked that lawyers had always incurred their fair share of abuse, especially loyal politicians, but the one Parliament from which lawyers had been excluded had gone down to history by the name of "the Unlearned Parliament." Popular criticism of lawyers contained a good deal of substance and, at a time when industry was being called upon to rationalise itself, the same demands were naturally being made of the law. It was important that reforms should come from within.

Mr. MARTINEAU, also in reply, expressed his gratification at being elected President of The Law Society in a year when the Lord Mayor was one of its members, and assured the Lord Chancellor of his personal co-operation in the task of cheapening the costs of litigation.

Lord TOMLIN proposed the health of "The Court of Aldermen and the Sheriff."

Sir GEORGE TRUSCOTT, in reply, paid a touching tribute to the memory of Sir William Waterlow. The Court of Aldermen performed their duties in a quiet, unostentatious way and their decisions, because rarely challenged, did not come before the eyes of the public. The court were happy in their association with the High Court Judges on the Commission of the Central Criminal Court.

Mr. Sheriff COLLINS, speaking also on behalf of his brother Sheriff, Mr. Maurice Jenks, said that the record of Sheriffs in this country was 600 years old, but that long before then King Nebuchadnezzar had called his "Councillors, judges and sheriffs to help him in his difficulties." He had recently shown a distinguished foreign commissioner over the Central Criminal Court, and the visitor had been impressed by the swiftness of the procedure, which was far superior to that in his own country, although it had "the very best of judges that money could buy."

In response to the toast of "The Master of the Worshipful Company of Grocers," proposed by the LORD MAYOR, Mr. H. COLLISON enumerated some distinguished judges who had been members of the company; the list included Lord Keeper Coventry, Finch, L.C., Tenterden, C.J., Cockburn, C.J., Chelmsford, L.C., and Lord Hanworth, the present Master of the Rolls.

Lord HANWORTH, in proposing the health of "The Lord Mayor and the Lady Mayoress," remarked that the Grocers' Company had built their hall after the great fire, but had had to let it first to the Lord Mayor and then to the Bank of England, which had again occupied the hall during the great war.

The LORD MAYOR replied.

Parliamentary News.

Progress of Bills.

House of Lords.

*Agricultural Land (Utilisation).
Read Third Time. [21st May.
*Agricultural Produce (Grading and Marketing) Amendment [H.L.] Committee. [7th July.
*Ancient Monuments [H.L.].
Royal Assent. [12th June.
Architects (Registration).
Read Third Time. [21st May.
Coal Mines.
Royal Assent. [8th July.
Destructive Foreign Animals [H.L.].
Report. [9th July.
*Expiring Laws Continuance.
Royal Assent. [19th December, 1930.
Finance.
Read Third Time. [15th July.
*Housing (Rural Workers) Amendment.
Royal Assent. [8th July.
Local Authorities (Admission of Press to Meetings). [H-L.]
Royal Assent. [11th June.
Local Authorities (Publicity).
Royal Assent. [12th June.
Local Government Clerks [H.L.]
Read Third Time. [18th June.
London Squares Preservation.
Read Third Time. [7th May.
Marriage (Prohibited Degrees of Relationship).
Read Third Time. [15th July.
Merchant Shipping (Safety and Load Line Convention).
Read Third Time. [7th July.
Mining Industry (Welfare Fund).
Royal Assent. [8th July.
*Pharmacy and Poisons [H.L.].
Read Third Time. [30th April.
Prevention of Imports of Convict or Forced Labour.
Read Third Time. [15th July.
Probation of Offenders (Scotland).
Read Third Time. [13th July.
Public Offices (Sites) Amendment.
Commons Resolutions agreed to. [30th April.
*Representation of the People (No. 2).
Read Second Time. [16th June.
Representation of the People (No. 2).
Committee. [9th July.
Road Traffic (Amendment) [H.L.].
Read Third Time. [9th July.
Salvation Army.
Read Third Time. [8th July.
Sentence of Death (Expectant Mothers).
Royal Assent. [8th July.
Small Landholders and Agricultural Holdings (Scotland).
Report. [30th June.
Unemployment Insurance (No. 2).
Royal Assent. [8th July.
Unemployment Insurance (No. 4).
Read Third Time. [8th July.

*Widows, Orphans and Old Age Contributory Pensions.
Royal Assent. [12th June.
Wills and Intestacies.
Reported without Amendment from Joint Committee. [17th June.
Workmen's Compensation.
Royal Assent. [12th June.

House of Commons.

Access to Mountains.
Read First Time. [12th May.
Adoption of Children (Scotland).
Read Second Time. [8th June.
*Agricultural Marketing.
Read Third Time. [13th July.
*Ancient Monuments [H.L.].
Read Third Time. [30th April.
Architects (Registration).
Lords Amendments considered. [9th July.
*Consumer's Council.
Read Second Time. [31st March.
Criminal Justice (Amendment).
Read First Time. [28th April.
Employment Returns.
Read Second Time. [17th April.
Fancy Jewellery (Standard Trade Descriptions).
Read First Time. [19th May.
*Finance.
As amended, further considered. [1st July.
Fire Brigade Pensions.
Read First Time. [19th May.
Hospital Lotteries.
Rejected on First Reading. [19th May.
Housing (Rural Authorities).
Committee. [14th July.
Leasehold Enfranchisement.
Motion for Second Reading. [1st May.
Local Authorities (Admission of the Press).
Royal Assent. [11th June.
Local Authorities (Publicity).
Royal Assent. [11th June.

Local Government Clerks [H.L.].
Read Second Time. [8th July.
London Passenger Transport.
Joint Committee. [10th June.
Marriage (Prohibited Degrees of Relationship).
Read Third Time. [1st May.
Mining Industry (Welfare Fund).
Read Third Time. [12th May.
National Industrial Council.
Second Reading deferred. [30th April.
Petroleum.
Read Second Time. [19th June.
Pharmacy and Poisons.
Read First Time. [1st May.
Probation of Offenders (Scotland).
Read Third Time. [5th June.
Proprietary Medicines.
Read First Time. [11th May.
Public Offices Sites (Amendment).
Withdrawn. [29th June.
Public Works Loans.
Read Second Time. [13th July.
Rabbits.
Read Second Time. [7th November, 1930.
Registration and Regulation of Osteopathy.
Withdrawn. [12th May.
Religious Persecutions (Abolition).
Read First Time. [19th May.
Rent (Reduction and Control).
Read Second Time. [19th June.
*Representation of the People (No. 2).
Read Third Time. [2nd June.
Rights of Railway Passengers.
Read Second Time. [1st July.
Rural Amenities.
Withdrawn. [14th April.
Shops (Sunday Trading Restriction).
Read Second Time. [8th May.
Solicitors.
Read First Time. [3rd November, 1930.
Solicitors (Clients' Accounts).
Read Second Time. [23rd January.
Summary Jurisdiction (Appeals).
Read Second Time. [24th April.
*Sunday Performances (Regulation).
Read Second Time. [20th April.
Third Parties (Rights against Insurers).
Read First Time. [6th May.
*Town and Country Planning.
Considered in Committee. [21st May.
Trade Disputes and Trades Union (Amendment).
Reported to House as amended. [3rd March.
Unemployment Insurance (No. 3).
Read First Time. [18th June.
Unemployment Insurance (No. 4).
Read Third Time. [1st July.
Vaccination.
Read First Time. [29th March.
Wireless Telegraphy (Bedridden Persons).
Read Second Time. [5th June.
Workmen's Compensation.
Royal Assent. [11th June.
Works Councils.
Second Reading deferred. [30th April.
Sharing Out Clubs (Regulation).
Read Second Time. [24th April.

* Government Bill.

House of Commons.

Questions to Ministers.

LOCAL GOVERNMENT (COUNTY DISTRICTS, REVIEW).

Mr. D. G. SOMERVILLE asked the Minister of Health the number of departmental inquiries which have hitherto been held into the objections of parishes to be absorbed in schemes drafted by county authorities under the Local Government Act, 1929, where they have been held; and how many applications are still to be considered.

Mr. GREENWOOD: I presume that the hon. Member has in mind the review of county districts under the Local Government Act, 1929, and I am sending him a statement which I trust will give him the information he seeks.

DEATH DUTIES (CHANNEL ISLANDS).

Mr. CLARKE asked the Chancellor of the Exchequer if his attention has been directed to cases where the estates of deceased persons are not liable to payment of estate and death duties owing to these persons having recently become domiciled in the Channel Islands; and if he will take measures to protect the taxpayers of the country from such evasions of the death duties.

Mr. PETHICK-LAWRENCE: My hon. Friend may rest assured that the whole subject of the avoidance, not merely of death duties, but of taxation in general, is not overlooked, and that appropriate action in the matter will be taken, should the necessity arise.

WIDOW'S PENSIONS.

Mr. GOULD asked the Minister of Health whether, in view of the delay and the consequent hardship caused to the widows who now come within the provisions of the amending Widows', Orphans' and Old Age Contributory Pensions Act, he will expedite payment at the earliest possible date.

Mr. GREENWOOD: Yes, sir.

TITHE RENT-CHARGE.

Mr. F. RILEY asked the Minister of Agriculture whether he will consider the advisability of introducing legislation to prevent the conveyance of land bearing tithe rent-charge without the liability being declared to the purchaser.

Dr. ADDISON: It is open to any purchaser of land to ascertain its liability to tithe rent-charge by inspection of the original tithe apportionment at the offices of the Ministry, or the copy deposited in the parish, usually in the custody of the incumbent and churchwardens, but if a suitable opportunity arises I will bear my hon. Friend's suggestion in mind.

HOUSE OF LORDS.

In rely to Mr. MCGOVERN, Mr. P. SNOWDEN said: The Government certainly hope to bring the question of the House of Lords to an issue and when the times comes will ask for power to do so.

COPYRIGHT LAW (GREAT BRITAIN AND UNITED STATES).

Replying to Mr. NAYLOR, Mr. W. R. SMITH said: The Bill which had the purpose of revising the United States Copyright Law so as to remove the provisions inconsistent with the International Copyright Convention of 1928, failed to pass the Senate before the close of the last Session of Congress. I understand, however, that it is probable that a similar Bill will be introduced when the first Session of the Seventy-second Congress meets in December.

UNEMPLOYMENT (LEGISLATIVE PROPOSALS).

Sir K. WOOD asked the Prime Minister when, before the House rises for the Summer Recess, he proposes to introduce legislative proposals with a view to the mitigation of unemployment.

The PRIME MINISTER: Notice of a Measure to stimulate the development of housing in rural areas has already been given to the House. No further special legislative proposals are contemplated before the House rises for the Summer Recess.

LAND VALUE TAX.

Sir B. PETO asked the Chancellor of the Exchequer to what extent the existing Land Tax will be taken into consideration in the valuation for land value duty, whether it has been redeemed or not.

Mr. PETHICK-LAWRENCE: In cases where Land Tax has not been redeemed the valuation will be made on the footing that a hypothetical purchaser of the fee simple would be liable to pay any such tax.

Replying to Sir ARTHUR STEEL-MAITLAND, Mr. PETHICK-LAWRENCE said: If, as I assume what the right hon. Member has in mind is an issue of forms for the purpose of obtaining information under Clause 27 of the Finance Bill, the date as at which the valuation under Pt. III of the Finance Bill is to be made is the 1st January, 1932, and it is not contemplated that any issue of forms, in those cases where it may be found necessary to take this step, will be made before that date.

JUSTICES OF THE PEACE.

In reply to Mr. MCSHANE, THE ATTORNEY-GENERAL (Sir William Jowitt) said: It is one of the duties of the local committees which advise my Noble Friend, the Lord

Chancellor, on the question of the selection and appointment of magistrates, to inform him of those magistrates who have ceased to take an active part in the performance of their duties, and in suitable cases he endeavours to procure their resignation.

RENT RESTRICTIONS ACTS.

Mr. MARCUS asked the Minister of Health if it is the intention of the Government to introduce legislation this Session in consequence of the recommendations of the committee appointed to investigate the operation of the Rent Restrictions Acts.

Mr. GREENWOOD: I do not anticipate that it will be possible to introduce any such legislation in the present Session.

CRIMINAL LAW.

Replying to Sir NICHOLAS GRATTAN-DOYLE The Attorney-General (Sir WILLIAM JOWITT) said: I have no power to prevent the presentation of an original bill of indictment except where my consent is sought in respect of those offences which are subject to the provisions of the Vexatious Indictments Act, 1859. In all other indictable offences it is open to any person to prefer an indictment without a preliminary hearing before a magistrate, or in a case where, after such a hearing, the magistrate has decided not to commit the accused for trial. The hon. Member is in error in regarding the proceedings before a magistrate as a trial. They are in the nature of a preliminary hearing to determine whether there is sufficient evidence to commit the accused for trial. I should add that the Attorney-General has the power to enter a *nolle prosequi* to any indictment, but this merely puts an end to the particular proceeding and is not the equivalent to an acquittal.

TITHE RENT-CHARGE (RECOVERY).

Replying to Sir G. PENNY, Dr. ADDISON said: That under the existing law, a person who has paid tithe rent-charge to a tithe owner under a mistake of fact, including cases where a landowner has paid tithe rent-charge on demand under a mistaken impression that he was owner of the land charged, is entitled to recover from the tithe owner the amount so paid.

LAND DRAINAGE ACT.

Replying to Lieut.-Colonel HENEAGE, Mr. GREENWOOD said: Under s. 60 of the Rating and Valuation Act, 1925, valuation lists and rate books are open to inspection by any ratepayer or any person authorised by a ratepayer to act on his behalf. I am, however, in consultation with my right hon. Friend, the Minister of Agriculture and Fisheries, as to the steps which it may be necessary or desirable for rating authorities to take so that the totals of rateable value included in the various catchment areas may be readily available to county councils and catchment boards, and I hope shortly to be in a position to communicate with the rating authorities concerned.

COSTS IN CRIMINAL CASES ACT.

Replying to Mr. FOOT, Mr. CLYNES said: I do not propose making any further regulations under the Costs in Criminal Cases Act, 1908. Orders as to the costs of the prosecution and as to allowances to witnesses are continually being made under the Act and orders as to the costs of poor prisoners' defence are made in cases where free legal aid is granted. The desired figures, however, are not available.

Rules and Orders.

HOUSING ACTS (EXTINGUISHMENT OF PUBLIC RIGHT OF WAY) PROVISIONAL REGULATIONS, DATED JUNE 18, 1931, MADE BY THE MINISTER OF HEALTH UNDER SECTIONS 13 AND 57 OF THE HOUSING ACT, 1930.

75,783.

The Minister of Health hereby certifies under Section 2 of the Rules Publication Act, 1893, that on account of urgency the following Regulations shall come into force immediately and in exercise of the powers conferred on him by Sections 13 and 57 of the Housing Act, 1930, and all other powers enabling him in that behalf hereby makes the following Regulations to come into operation immediately as Provisional Regulations:—

1. These Regulations may be cited as the Housing Acts (Extinguishment of Public Right of Way) Provisional Regulations, 1931.

2. The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

3. An order made by a local authority under Section 13 of the Housing Act, 1930, for the extinguishment of any public right of way over any land purchased by them under Part I of the said Act, shall be in the form set out in the Schedule hereto, or in a form substantially to the like effect.

4. Not less than six weeks before submitting the order for approval by the Minister of Health the local authority shall—

(*a*) publish in one or more local newspapers circulating within their district a notice in the form set out in the Schedule hereto describing the public right of way to which the order relates and naming a place at which a copy of the order and of the map referred to therein may be seen at all reasonable hours; and

(*b*) affix a copy of the same notice in a prominent position at each end of the public right of way to which the order relates.

5. Every notice affixed in accordance with the last preceding article shall be kept exhibited in such position for a period of not less than six weeks.

THE SCHEDULE.

FORM OF ORDER EXTINGUISHING A PUBLIC RIGHT OF WAY.

Housing Act, 1930.

Whereas the [1] (hereinafter referred to as "the Council") in pursuance of their powers under Part I of the Housing Act, 1930, have purchased certain lands situate at which lands are shown[2] coloured [pink] on a map marked[3] and sealed with the Common Seal of the Council and deposited at the offices of the Council;

And Whereas by a resolution passed at a meeting of the Council held on the day of 19 , the Council have determined to extinguish the public right of way over the said lands along the street / road / pathway / passage [4] known as and marked on the said map by [dotted lines between the points A and B[5]] and thereon coloured brown;

Now Therefore the Council in pursuance of their powers under Section 13 of the Housing Act, 1930, hereby order that the public right of way over the said lands along the street / road / pathway / passage [4] known as and marked on the said map in the manner hereinbefore described shall cease and be extinguished[6]

This Order may be cited as the[6] Right of Way Extinguishment Order, 19 , and shall come into operation as from the date of its approval by the Minister of Health.

Given under the Seal of the this.....day of.....19 .

(L.S.)

Directions for filling up this Form.

[1] Description of the Local Authority.

[2] The map should show the land over which the right of way passes.

[3] The map should be identified by a heading in the terms of the short title of the order.

[4] Strike out whichever descriptions are inappropriate.

[5] Or other clear description.

[6] Here insert a suitable short title.

FORM OF NOTICE OF THE MAKING OF AN ORDER EXTINGUISHING A PUBLIC RIGHT OF WAY.

Housing Act, 1930.

Notice is hereby given that the[1] in pursuance of their powers under Section 13 of the Housing Act, 1930, on the day of 19 , made an order which will be submitted to the Minister of Health for his approval, ordering that the public right of way described in the Schedule hereto be extinguished as from the date of approval of the order by the Minister of Health.

A copy of the said order and of the map referred to therein has been deposited at and may be seen at all reasonable hours.

Any objection to the said order must be made in writing, stating the grounds of objection, and addressed to the Minister of Health, Whitehall, London, S.W., before the[2] day of 19 .

The Act provides that if any objection to the order is duly made to the Minister before the expiration of six weeks from the date of publication thereof, the Minister shall not approve the order until he has caused a public local inquiry to be held into the matter.

SCHEDULE.

(Here insert such a description of the public right of way to which the order relates as may be sufficient for identification.)

Dated this.....day of.....19..

Signature of the Clerk of the Local Authority.

Directions for filling up this Form.

[1]Description of Local Authority.

[2]Here insert a date six clear weeks from the date of publication of the notice.

Given under the Official Seal of the Minister of Health this eighteenth day of June nineteen hundred and thirty-one.

(L.S.) *H. W. S. Francis,*
Principal Assistant Secretary,
Ministry of Health.

THE SUPREME COURT FUNDS RULES, 1931.

DATED JUNE 3, 1931.

I, John Lord Sankey, Lord High Chancellor of Great Britain, with the concurrence of the Lords Commissioners of His Majesty's Treasury and in pursuance of the powers contained in section 146 of the Supreme Court of Judicature (Consolidation) Act, 1925,(*a*) and of every other power enabling me in this behalf, hereby make the following rules:—

1. The following paragraph shall be added to Rule 34 of the Supreme Court Funds Rules, 1927,(*b*) and shall stand as paragraph (2) of that Rule.

"(2) Where the Admiralty Marshal lodges with the Bank of England any draft or cash representing the proceeds of any sale effected by him, he shall at the same time lodge with the Bank a notice in the Form No. 24A (I) and the Bank shall forward to the Accountant-General a bank certificate of receipt in the Form No. 24A (II)."

2. The following paragraph shall be added to Rule 44 of the Supreme Court Funds Rules, 1927, and shall stand as paragraph (3) of that rule—

"(3) When securities have been lodged under the authority of a Warrant of the Board of Trade or of the Industrial Assurance Commissioner in pursuance of the Assurance Companies Act, 1909,(*c*) or the Industrial Assurance Act, 1923,(*d*) or the Road Traffic Act, 1930,(*e*) payment of the interest or dividends on such securities shall be made by the Accountant-General to the Company, Society, or person in whose name the deposit has been made upon a request in the Form No. 37A or No. 37B, as the case may be."

3. The following Form shall be inserted in the Appendix to the Supreme Court Funds Rules, 1927, after Form No. 24:—

"FORM 24A.

ADMIRALTY MARSHAL'S REQUEST FOR LODGMENT OF PROCEEDS OF SALE.

In the High Court of Justice, Probate, Divorce and Admiralty Division.

I.—*Request for Lodgment of Money.*

Title of cause or matter.

To the Agent of the Bank of England, Law Courts Branch.

Please receive the sum of
for the Accountant-General of the Supreme Court, being the gross proceeds of sale of

II.—*Bank Certificate of Receipt.*

To the Accountant-General, Royal Courts of Justice.

Bank of England, Law Courts Branch (or as the case may be)
19 .

The above stated sum has been this day received.

Signature for the Bank of England."

4. The following Forms shall be inserted in the Appendix to the Supreme Court Funds Rules, 1927, after Form No. 37:—

"Form No. 37A.

Rule 44 (3).

A.

Request for remittance of dividends to a bank in respect of a deposit in Court under the Assurance Companies Act 1909 or the Industrial Assurance Act 1923 or the Road Traffic Act 1930 and a warrant of the Board of Trade or of the Industrial Assurance Commissioner.

IN THE HIGH COURT OF JUSTICE—CHANCERY DIVISION.

To the Accountant-General,
Royal Courts of Justice, W.C.2.

LEDGER CREDIT: (*Precise title of matter in Pay Office books*).

We hereby request you to remit the interest or dividends due and to become due on the fund in Court in the above matter to (name of bank)
bank at
(full address of bank)
by cheque crossed to the account of the said Company at the said Bank, and the signature of the proper officer thereof shall be your full and sufficient discharge.

Given under seal of the Company affixed hereto in our presence this day of

Director's signature
(Seal) Director's signature
Secretary's signature

Address of Company.

N.B.—See other side for remittance to the Company.

B.

Request for remittance of dividends to Payee Company in respect of a deposit in Court under the Assurance Companies Act 1909 or the Industrial Assurance Act 1923 or the Road Traffic Act 1930 and a warrant of the Board of Trade or of the Industrial Assurance Commissioner.

IN THE HIGH COURT OF JUSTICE—CHANCERY DIVISION.

To the Accountant-General,
Royal Courts of Justice, W.C.2.

LEDGER CREDIT: (*Precise title of matter in Pay Office books*).

We hereby request you to remit the interest or dividends due and to become due on the fund in Court in the above matter to us by cheque crossed to the account of the Company at (name of bank)

Given under seal of the Company affixed hereto in our presence this day of .

Director's signature
(Seal) Director's signature
Secretary's signature

Address of Company.

N.B.—See other side for remittance direct to Company's Bank.

Form No. 37 B.

Rule 44 (3)

A.

Request for remittance of dividends to a bank in respect of a deposit in Court under the Assurance Companies Act 1909 or the Industrial Assurance Act 1923 or the Road Traffic Act 1930 and a warrant of the Board of Trade or of the Industrial Assurance Commissioner.

IN THE HIGH COURT OF JUSTICE—CHANCERY DIVISION.

To the Accountant-General,
Royal Courts of Justice, W.C.2.

LEDGER CREDIT: (*Precise title of matter in Pay Office books*).

I or We hereby request you to remit the interest or dividends due and to become due on the fund in Court in the above matter to (name of bank)
bank at
(full address of bank)
by cheque crossed to my account or the account of the said Society [*as the case may be*] at the said Bank, and the signature of the proper officer thereof shall be your full and sufficient discharge.

Signatures
[*If payable to a Society all the Trustees must sign.*]

Address Date

N.B.—See other side for remittance to the person or Society.

B.

Request for remittance of dividends to a person or Society in respect of a deposit in Court under the Assurance Companies Act 1909 or the Industrial Assurance Act 1923 or the Road Traffic Act 1930 and a warrant of the Board of Trade or of the Industrial Assurance Commissioner.

IN THE HIGH COURT OF JUSTICE—CHANCERY DIVISION.

To the Accountant-General,
Royal Courts of Justice, W.C.2.

LEDGER CREDIT: (*Precise title of matter in Pay Office books*).

I or We hereby request you to remit the interest or dividends due and to become due on the fund in Court in the above matter to me or us by cheque crossed to my account or the account of the Society at
(name of bank)

Signatures
[*If payable to a Society all the Trustees must sign.*]

Address Date

N.B.—See other side for remittance direct to person's or Society's Bank."

5. These Rules may be cited as the Supreme Court Funds Rules, 1931, and shall come into operation on the 1st day of

(*a*) 15–6 G. 5, c. 49. (*b*) S.R. & O. 1927 (No. 1184), p. 1638.
(*c*) 9 E. 7, c 49. (*d*) 13–4 G. 5, c. 8. (*e*) 20–1 G. 5, c. 43.

July, 1931; and the Supreme Court Funds Rules, 1927, as amended, shall have effect as further amended by these Rules.

6. The Supreme Court Funds Provisional Rules, 1928, which came into operation on the 10th April, 1928, and the Supreme Court Funds Provisional Rules, 1930, which came into operation on the 1st January, 1931, shall continue in force till the 1st day of July, 1931, on which day they shall be superseded and replaced by these Rules.

Dated the 3rd day of June, 1931.

Sankey, C.

Ernest Thurtle
H. C. Charleton, } Lords Commissioners of His Majesty's Treasury.

BANKRUPTCY FEES (AMENDMENT) ORDER, 1931.

In the First Schedule to the Bankruptcy Fees Order, 1930, in Fee No. 14 (Application to approve composition), the following additional note is to be inserted after the description of the proceeding:—

"For the purpose of calculating this fee, the gross amount means the amount to be provided under the terms of the composition for ordinary and preferential creditors and for costs, charges and expenses, and for fees and percentages (other than this fee)." (1931. No. 520. L.13.)

Legal Notes and News.

Honours and Appointments.

The King has approved the appointment of Mr. E. MITCHELL-INNES, K.C., to be a Commissioner of Assize to go the Midland Circuit (Birmingham). Mr. Mitchell-Innes has been Solicitor-General for the County Palatine of Durham since 1930, Recorder of Leeds since 1928, and Chancellor of the Diocese of Ripon since 1929. He was called to the Bar by the Middle Temple in 1924, taking silk in 1908.

The King has approved a recommendation of the Home Secretary that Dr. WILLIAM GEORGE EARENGEY, K.C. (Recorder of Tewkesbury), be appointed Recorder of Dudley to succeed the late Mr. Herbert Davey, and that Mr. WILFRID PRICE be appointed Recorder of Tewkesbury.

Dr. Earengey, who was appointed Recorder of Tewkesbury last year, was educated at London University. He was called to the Bar by the Middle Temple in 1919, joined the Oxford circuit, and took silk last February. Before becoming a barrister he had practised as a solicitor. Mrs. Earengey is also a barrister of the Middle Temple.

Mr. Price was called to the Bar by the Middle Temple in 1904. He practises on the Oxford circuit and at the Central Criminal Court.

The Lord Chancellor has appointed Mr. AUSTIN JONES to be the Judge on the County Courts on Circuit No. 50 (Sussex), in place of His Honour Sir William Cann, who has retired.

Mr. FRANCIS B. ALLBUTT, solicitor, of the firm of Hooper and Fletcher, Biggleswade, has been appointed Undersheriff for the County of Bedford, Clerk to the Justices of the Biggleswade Division, and Clerk to the Commissioners of Taxes in succession to the late Mr. W. F. A. Fletcher.

The Sheriffs-Elect of the City of London have appointed Mr. SIDNEY A. NEWTON, solicitor (Messrs. Nash, Field & Co.), and Mr. T. HOWARD DEIGHTON, solicitor (Timbrell, Deighton and Nicholls), as the Under-sheriffs.

Sir MONTAGUE SHARPE, K.C., has been re-elected Chairman of Middlesex Sessions, The Right Hon. Sir HERBERT NIELD, P.C., K.C., M.P., was re-elected Deputy Chairman, and Sir THOMAS FORSTER, K.C. as Assistant Deputy Chairman.

Mr. W. VERNON LEWIS, Solicitor, Cardiff, has been appointed an Assistant Solicitor in the Department of the Town Clerk of Nottingham (Mr. W. J. Board, O.B.E.).

Mr. W. S. ALLAN, Solicitor, Deputy Town Clerk of Oxford, has been appointed Deputy Town Clerk of the County Borough of Eastbourne.

It was proposed that the honorary freedom of the Borough of Gillingham (Kent) should be conferred upon Mr. F. C. Boucher, LL.B., the retiring Town Clerk, but at his suggestion the matter has been deferred for six months.

Professional Announcements.

(2s. per line.)

CARTER & BELL, of 10A, Idol-lane, Eastcheap, E.C.3, have taken CYRIL EDWARD BAYLIS into partnership as from the 1st June last. The firm's name remains unchanged.

Professional Partnerships Dissolved.

WILLIAM HENRY FARR ADAMS and JOHN JONES WILLIAMS, solicitors, Dolgelly, in the County of Merioneth (William Griffith, Adams & Williams), dissolved by mutual consent as from 30th June, 1931. The business will be carried on in the future by J. J. Williams.

Sir GEORGE JEFFORD FOWLER, ARTHUR STUART LEGG, JOHN SEABORNE HOOK and FRANCIS CHARLES GREANEY, solicitors, 13, Bedford-row, London, W.C. (Fowler, Legg & Wood), dissolved by mutual consent as from 30th June, 1931. The business will be carried on in the future by A. S. Legg, J. S. Hook and F. C. Greaney under the style or firm of Fowler, Legg & Co.

SAMUEL BROMLEY GARRARD and JOHN RANDOLPH ANTHONY, solicitors, 7, Sansome-place, Worcester (Garrard & Anthony), dissolved as far as S. B. Garrard is concerned, by mutual consent, as from 30th June, 1931. The business will be carried on in the future by J. R. Anthony.

Wills and Bequests.

Mr. Richard Manders, K.C., C.B., of Milford-on-Sea, Hants, Registrar of Titles and Deeds in Ireland from 1908 to 1922, for seventeen years Parliamentary Draftsman at the Irish Office, left estate of the gross value of £4,745, with net personalty £4,693.

Mr. Herbert William Brown, solicitor, Tewkesbury, left estate of the gross value of £10,373, with net personalty £6,381.

Mr. John Norman MacTaggart, of Campbeltown, Argyll, joint agent of the Commercial Bank and senior partner of the firm of C. and D. MacTaggart, solicitors, Procurator Fiscal for Argyllshire, left personal estate (in Great Britain) of the gross value of £14,606.

Mr. William Thomas Gwyn, solicitor, Cowbridge, Glamorgan, for more than thirty-eight years Town Clerk of that borough, left estate of the gross value of £4,248, with net personalty £2,705.

Mr. Charles Sydney Giddins, of Wigmore-street, W., and Martin-lane, E.C., solicitor, left estate of the gross value of £7,034.

Mr. Stuart Douglas Elliot, of Edinburgh, Solicitor to the Supreme Courts, left personal estate of the gross value of £4,902.

Mr. William Percy Bourne, solicitor, Southam, Warwickshire, Registrar of the Southam County Court, 1900 to 1927, who died on 15th February last, aged 64, left estate of the gross value of £4,913, with net personalty £4,425.

COMPANIES ACT PROSECUTION.

Fines totalling £40 were imposed by Sir Chartres Biron at Bow Street Police Court on Monday last on James Southern Limited, Whitby Road, Ellesmere Port, Cheshire, for offences under the Companies Act in failing to notify the Registrar of Companies of the resignation of one of its directors and failing to file their annual return for 1930. James Southern, a director, was fined £30 and ordered to pay £6 6s. costs for being a party to the defaults of the company under the Companies Act. Mr. V. R. Fletcher appeared for the Board of Trade. Mr. Eric Colwill, for the defence, said that the company became more or less moribund, and their neglect was due to ignorance.

U.S. LAWYERS' "STUDIOUS PILGRIMAGE."

A party of about thirty American lawyers who are making a "studious pilgrimage to the sources of international, common, and civil law," arrived in London on Monday, and will stay in this country until 20th July, when they are to go on to Paris. The General Council of the English Bar has co-operated in arranging a programme to interest the visitors. Among those who have made the journey are Mr. Fenton Whitlock Booth, Chief Justice of the United States Court of Claims; Dr. Ellery Cory Stowell, Professor of International Law at the American University, Washington; Mr. W. Ray Vallance, President of the Federal Bar Association; and Dr. W. E. Armstrong.

The party was received on Tuesday afternoon at the County Hall by Mr. W. W. Grantham, K.C., Recorder of Deal, who is a member of the L.C.C. On Wednesday there was a reception in the morning by the Recorder, Sir Ernest Wild, at the Old Bailey, and a reception in the afternoon in The Law Society's Hall by Sir Roger Gregory. For Thursday, visits to Scotland Yard and Guildhall had been arranged, and Lord Blanesburgh held a reception at the Goldsmiths' Hall. Lord Hanworth, Master of the Rolls, received the party on Friday morning at the Record Office, Chancery Lane, and in the afternoon Sir Thomas Hughes, Chairman of the General Council of the Bar, gave a talk on Lincoln's Inn at the Old Hall, and afterwards conducted the visitors round the Inn.

INCIDENT AT MURDER TRIAL.

There was an unusual incident at the County Down Assizes at Downpatrick on Tuesday, says *The Times*, during the trial of Gerald Kennedy, twenty-five, a pedlar, charged with the murder of Ellen Maguire, an old-age pensioner, at Dromara. It was alleged that Kennedy and Francis Morrison murdered the old woman and stole her money, and at a previous trial Morrison was convicted and sentenced to death. He was afterwards reprieved, and the Attorney-General called him to give evidence. The Lord Chief Justice said he was against a man in Morrison's position giving evidence. Counsel for the defence said he did not wish to cross-examine Morrison. The Lord Chief Justice ordered Morrison to stand down, and he was at once removed to the cells. The trial was continued. Kennedy was found Guilty and sentenced to death.

JUDGE AND AFFIDAVIT EVIDENCE.

Mr. Justice Wright on Tuesday had before him a case in which counsel on each side mentioned inconsistencies in the affidavits. Pointing out that a witness present in court could be cross-examined to elucidate the truth, his Lordship remarked that affidavit evidence required considerable care.

"Here," he said, "a mass of vague and inconsistent statements are thrown at the court without any regard for relevance and accuracy. The whole idea of affidavit evidence for the expeditious and simple handing of cases breaks down if documents of this sort are produced as evidence."

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE.	EMERGENCY ROTA.	APPEAL COURT No. 1.	GROUP I. Mr. JUSTICE EVE. Witness. Part II.	Mr. JUSTICE MAUGHAM. Witness. Part I.
M'nd'y July 20	Mr. Jolly	Mr. More	Mr.*Hicks Beach	Mr. More
Tuesday .. 21	Hicks Beach	Ritchie	*Andrews	*Hicks Beach
Wednesday 22	Blaker	Andrews	*More	Andrews
Thursday . 23	More	Jolly	Hicks Beach	*More
Friday 24	Ritchie	Hicks Beach	*Andrews	Hicks Beach
Saturday .. 25	Andrews	Blaker	More	Andrews

DATE.	GROUP I. Mr. JUSTICE BENNETT. Non-Witness.	Mr. JUSTICE CLAUSON. Witness. Part I.	GROUP II. Mr. JUSTICE LUXMOORE. Non-Witness.	Mr. JUSTICE FARWELL. Witness. Part II.
M'nd'y July 20	Mr. Andrews	Mr.*Jolly	Mr. Blaker	Mr.*Ritchie
Tuesday .. 21	More	Ritchie	Jolly	*Blaker
Wednesday 22	Hicks Beach	*Blaker	Ritchie	*Jolly
Thursday . 23	Andrews	Jolly	Blaker	Ritchie
Friday 24	More	*Ritchie	Jolly	Blaker
Saturday .. 25	Hicks Beach	Blaker	Ritchie	Jolly

*The Registrar will be in Chambers on these days, and also on the days when the Courts are not sitting.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (14th May, 1931) 2½%. Next London Stock Exchange Settlement Thursday, 23rd July, 1931.

	Middle Price 14 July 1931.	Flat Interest Yield.	Approximate Yield with redemption
English Government Securities.		£ s. d.	£ s. d.
Consols 4% 1957 or after	92	4 7 0	—
Consols 2½%	59½	4 4 0	—
War Loan 5% 1929-47	103¼	4 16 10	—
War Loan 4½% 1925-45	101	4 9 1	4 8 0
Funding 4% Loan 1960-90	95	4 4 3	4 4 6
Victory 4% Loan (Available for Estate Duty at par) Average life 35 years	97	4 2 6	4 3 0
Conversion 5% Loan 1944-64	107	4 13 7	4 11 6
Conversion 4½% Loan 1961	102	4 8 3	4 6 0
Conversion 3½% Loan 1961	82	4 5 4	—
Local Loans 3% Stock 1912 or after	68	4 8 3	—
Bank Stock	273½	4 7 9	—
India 4½% 1950-55	78½	5 14 8	—
India 3½%	59½	5 17 8	—
India 3%	49½	6 1 3	—
Sudan 4½% 1939-73	100	4 10 0	4 0 0
Sudan 4% 1974	95	4 4 3	4 4 10
Transvaal Government 3% 1923-53 (Guaranteed by Brit. Govt. Estimated life 15 yrs.)	88½	3 7 10	3 18 9
Colonial Securities.			
Canada 3% 1938	94	3 3 10	4 0 0
Cape of Good Hope 4% 1916-36	98	4 1 8	4 8 0
Cape of Good Hope 3½% 1929-49	87	4 0 6	4 11 3
Ceylon 5% 1960-70	102	4 18 0	4 17 8
*Commonwealth of Australia 5% 1945-75	78½	6 7 5	6 10 0
Gold Coast 4½% 1956	101	4 9 1	4 8 9
Jamaica 4½% 1941-71	98	4 11 10	4 12 3
Natal 4% 1937	98	4 1 8	4 7 6
*New South Wales 4½% 1935-1945	62	7 5 2	8 0 6
*New South Wales 5% 1945-65	67	7 9 3	7 10 5
New Zealand 4½% 1945	95½	4 14 3	4 19 0
New Zealand 5% 1946	100½	4 19 6	4 19 9
Nigeria 5% 1950-60	102	4 18 0	4 17 6
*Queensland 5% 1940-60	75	6 13 4	6 19 0
South Africa 5% 1945-75	105	4 15 3	4 14 6
*South Australia 5% 1945-75	74	6 15 2	6 16 0
*Tasmania 5% 1945-75	77½	6 9 0	6 12 6
*Victoria 5% 1945-75	75	6 13 4	6 15 6
*West Australia 5% 1945-75	76	6 11 7	6 14 6
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corporation	67	4 9 7	—
Birmingham 5% 1946-56	107	4 13 6	4 10 6
Cardiff 5% 1945-65	105	4 15 3	4 14 0
Croydon 3% 1940-60	76	3 18 11	4 10 0
Hastings 5% 1947-67	105	4 15 3	4 14 0
Hull 3½% 1925-55	85	4 2 4	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	79	4 8 7	—
London City 2½% Consolidated Stock after 1920 at option of Corporation	57½	4 6 11	—
London City 3% Consolidated Stock after 1920 at option of Corporation	69½	4 16 4	—
Metropolitan Water Board 3% "A" 1963-2003	71	4 4 6	—
Do. do. 3% "B" 1934-2003	73	4 2 2	—
Middlesex C.C. 3½% 1927-47	90	3 17 9	4 7 6
Newcastle 3½% Irredeemable	75	4 13 4	—
Nottingham 3% Irredeemable	69	4 6 11	—
Stockton 5% 1946-56	103	4 17 1	4 16 9
Wolverhampton 5% 1946-56	105	4 15 3	4 13 3
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	85½xd	4 13 7	—
Gt. Western Railway 5% Rent Charge	101xd	4 19 0	—
Gt. Western Rly. 5% Preference	84½	5 18 4	—
L. & N.E. Rly. 4% Debenture	77	5 3 11	—
L. & N.E. Rly. 4% 1st Guaranteed	70½	5 13 6	—
L. & N.E. Rly. 4% 1st Preference	42½	9 6 2	—
L. Mid. & Scot. Rly. 4% Debenture	79½	5 0 8	—
L. Mid. & Scot. Rly. 4% Guaranteed	72½	5 10 4	—
L. Mid. & Scot. Rly. 4% Preference	43	9 6 0	—
Southern Railway 4% Debenture	83½	4 15 10	—
Southern Railway 5% Guaranteed	100	5 0 0	—
Southern Railway 5% Preference	83½	5 19 9	—

*The prices of Australian stocks are nominal—dealings being now usually a matter of negotiation.